

UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
DALLAS REGION

In the Matter of:

**U.S. DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT  
TEMPLE, TEXAS,**

Respondent,

and

**AMERICAN FEDERATION OF GOVERNMENT  
EMPLOYEES, LOCAL 571, AFL-CIO,**

Charging Party.

Case No. **DA-CA-15-0080**

The above-entitled matter came on for hearing pursuant to notice, before **CHARLES R. CENTER**, Administrative Law Judge, at the **Texas Rural Development State Office, 101 South Main Street, Suite 102, Temple, Texas**, on **Thursday, November 19, 2015**, at **9:00 a.m.**

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A P P E A R A N C E S

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Dorothy D. Aupperle	32	72	87	--	--
Todd English	90	113	--	--	--
Renee Young	120	168	--	--	--
Sylvia Maegden	200	--	--	--	--
Theresa Jordison	224	250	--	--	--
Allen Lambright	258	265	--	--	--
Gary Jacobs	269	273	--	--	--

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E X H I B I T S

<u>EXHIBIT NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
JOINT		
J-1 and J-2	7	7
GENERAL COUNSEL'S		
GC-1(a) through 1(i)	7	7
GC-2A, GC-4 through GC-13, GC-15, GC-16, and GC-18 through GC-36	8	8
RESPONDENT'S		
R-L	8	11
R-M	8	12
R-N	8	26
R-O	8	12
R-P	8	26
R-Q	8	13
R-R through R-U	8	15
R-V	8	168
R-W	8	18
R-AA	8	20
R-BB through R-DD	8	26
R-EE	8	22- withdrawn
R-FF and R-GG	8	26

P R O C E E D I N G S

(Time Noted: 9:00 a.m.)

JUDGE CENTER: This hearing will come to order.

This is a formal hearing before the Federal Labor Relations Authority in Case No. DA-CA-15-0080, conducted in Temple, Texas, on November 19, 2015.

Presiding is Charles C. Center, Chief Administrative Law Judge for the Federal Labor Relations Authority. My office address is 1400 K Street, N.W., Suite 300, Washington, D.C. 20424. All post-trial communications should be mailed to that address.

Counsel and other representatives of the parties please state your appearances for the record, starting with counsel for the General Counsel.

MS. DYE: Charlotte Dye --

MR. MONTGOMERY: John Montgomery -- the address is 1400 Independence Avenue, S.W., Room 0342-South, Mail Stop 0730, Washington, D.C. 20250.

JUDGE CENTER: All right. And are you the assistant counsel or technical representative?

MR. MONTGOMERY: This is Mr. James Keim, who is also with Rural Development from St. Louis who will be serving as my technical representative and assistant.

JUDGE CENTER: All right. Thank you.

The Statute and FLRA Regulations direct that rules of

1 evidence are not to be strictly followed in this hearing.  
2 However, the parties are advised that any objection not made is  
3 deemed waived and that leading your own witnesses is not the  
4 most persuasive method of eliciting testimony.

5 If settlement discussions are desired during the hearing,  
6 I will entertain a motion for recess for that purpose,  
7 recognizing that factual developments can inspire settlement.  
8 I also remind you that settlement on your terms remains an  
9 option until I have issued my decision.

10 In addition, if I inadvertently overlook any matter during  
11 the course of this hearing, please call it to my attention.

12 General Counsel, please offer the pleadings and other  
13 formal papers into the evidence.

14 MS. DYE: At this time the General Counsel enters GC  
15 Exhibit 1(a) through 1(i). Do you want me to read them into  
16 the record or --

17 JUDGE CENTER: No.

18 MS. DYE: -- just state them? We offer this for evidence.

19 JUDGE CENTER: Respondent?

20 MR. MONTGOMERY: Yes, the Agency offers --

21 JUDGE CENTER: No, no, I'm asking if you have any  
22 objection to General Counsel --

23 MR. MONTGOMERY: Oh, if I have an objection to the  
24 exhibits. No.

25 JUDGE CENTER: To the formal pleadings.

1 All right. General Counsel Exhibit 1(a) through 1(i) is  
2 admitted into the record.

3 **(General Counsel's Exhibit 1(a) through (i) marked for**  
4 **identification and received into evidence.)**

5 JUDGE CENTER: Is there a stipulation of fact?

6 MS. DYE: Yeah, there's Joint Exhibit 1 is a stipulation  
7 of fact and Joint Exhibit 2 is a brochure [sic]. Both of these  
8 describe generally the Agency's program areas.

9 **(Joint Exhibits 1 and 2 marked for identification.)**

10 JUDGE CENTER: All right. And since they're joint, I'm  
11 assuming you have no objection?

12 MR. MONTGOMERY: Correct.

13 JUDGE CENTER: All right. Joint Exhibits 1 and 2 are  
14 admitted into the record.

15 **(Joint Exhibits 1 and 2 received into evidence.)**

16 JUDGE CENTER: General Counsel, do you have any exhibits  
17 you would like to introduce?

18 MS. DYE: Yes. The General Counsel has 33 exhibits.  
19 There's a couple of missing numbers, but generally there's 33,  
20 and I believe that a large percent of them are documents that  
21 were already introduced in our prehearing disclosure, and so  
22 they've agreed to use the General Counsel's documents. And I  
23 think that we've agreed to the rest of the documents, General  
24 Counsel's Exhibits 2A through 36.

25 JUDGE CENTER: But there's some numbers missing, if I

1 understand you correctly?

2 MS. DYE: Yeah, there's a Number 3 missing, and Number 14  
3 missing and Number 17 missing, and -- 33.

4 JUDGE CENTER: All right. Respondent?

5 MR. MONTGOMERY: Yes, Judge, the Agency --

6 JUDGE CENTER: Do you have any objection to her exhibits?

7 MR. MONTGOMERY: Oh, I'm sorry. No, no objection to any  
8 of those.

9 JUDGE CENTER: All right. General Counsel's Exhibits 2A  
10 through 36 are admitted, recognizing that the General Counsel  
11 3, General Counsel 14 and General Counsel 17 are not part of  
12 that package.

13 **(General Counsel's Exhibits 2A, 4 through 13, 15, 16, and 18**  
14 **through 36 marked for identification and received into**  
15 **evidence.)**

16 JUDGE CENTER: Respondent, do you have any exhibits you  
17 would like to enter at this point?

18 MR. MONTGOMERY: I do have. I believe there are 25 of  
19 them in number. They are designated by letters of the  
20 alphabet. Letters A through K are not used because all of  
21 those turned out to be duplicates of exhibits that were already  
22 being offered by the other side. We have exhibits denominated  
23 by letters L through Z of the alphabet, and also AA through GG.  
24 **(Respondent's Exhibits L through GG marked for identification.)**

25 JUDGE CENTER: All right. Counsel for the General



1 Counsel?

2 MS. DYE: We have some objections to the documents.

3 JUDGE CENTER: All right. Identify the documents to which  
4 you have an objection.

5 MS. DYE: Exhibit L, Exhibit M, Exhibit N, Exhibit O,  
6 Exhibit Q, Exhibit R, Exhibit S, Exhibit T, Exhibit U, Exhibit  
7 V, Exhibit W, Exhibit AA, and Exhibit EE, GG -- EE, FF and GG.

8 JUDGE CENTER: All right. With respect to Respondent  
9 Exhibit L, what's your objection?

10 MS. DYE: Respondent Exhibit L is -- sorry, Your Honor, I  
11 got them out of order when I was working on them. Here we go.  
12 This relates to a grievance on a matter of non-selection for  
13 Renee Young subsequent to the unilateral change here.  
14 Ms. Young applied for -- to be selected for on a team, was not  
15 chosen and she filed a grievance on the matter, and the  
16 Agency's purpose of entering this into the record is to show  
17 that the Union was in agreement with the change that the union  
18 vice president, as an employee, applied for a position, one of  
19 the positions in the centralized team or that she was self-  
20 dealing.

21 JUDGE CENTER: All right. So your objection is?

22 MS. DYE: That it's immaterial.

23 JUDGE CENTER: All right.

24 MS. DYE: Not relevant to the matter at issue here which  
25 is unilateral change.

1 JUDGE CENTER: Counsel?

2 MR. MONTGOMERY: This exhibit and some of the others will  
3 go to part of our argument, which is that the Union's purported  
4 belief that the Agency failed to negotiate properly and  
5 otherwise is actually motivated by the union person's  
6 disappointment and resentment at not being selected later on to  
7 take part in the reorganization plan in a manner that she had  
8 hoped. And this, along with a number of other exhibits, goes  
9 to the credibility of the testimony that she's going to offer  
10 because she presumably is going to testify that everything that  
11 was done was done in the interest of the Union and its  
12 bargaining unit members. We say that it was largely, if not  
13 entirely, done to advance her personal interest.

14 JUDGE CENTER: All right.

15 MR. MONTGOMERY: And I can further add that, whether this  
16 is true or not, obviously we'll have the witnesses talk about  
17 it and it's up to you to decide whether it's true or not.

18 JUDGE CENTER: That's a question and fact for me to  
19 decide.

20 MR. MONTGOMERY: The objection is, I would say, is to the  
21 weight rather than to the admissibility.

22 JUDGE CENTER: All right. Counsel?

23 MS. DYE: The General Counsel's position on that is that  
24 all of the pre-decisional involvement and bargaining, what  
25 there was, with the Union, was prior to the date of her

1 selection. So she -- the Agency had already failed to bargain  
2 with the Union over this matter. It was completely done. They  
3 were implementing the program, and as a result of the program,  
4 she applied for it. Now, if the Union representatives are not  
5 allowed to, you know, take advantage of unilateral changes that  
6 the Agency puts in for fear that they're going to be looking as  
7 if they're self-dealing or as if that they've agreed with the  
8 change itself --

9 JUDGE CENTER: All right, Counsel, but you're going to the  
10 merit of the issue, not the question of whether it's material  
11 or not. Your initial objection was it was immaterial.

12 MS. DYE: It's immaterial. The fact that she applied for  
13 a selection on the team is totally immaterial to whether or not  
14 she as the Union vice president requested to bargain and the  
15 Agency refused to bargain over the matter. It has nothing to  
16 do about the bargaining.

17 JUDGE CENTER: All right. Based upon the Respondent's  
18 explanation of what he's going to use the exhibit for,  
19 Respondent Exhibit L is admitted into the record. The  
20 objection is overruled.

21 **(Respondent's Exhibit L received into evidence.)**

22 MS. DYE: Okay. Well, Exhibit M, we have exactly the same  
23 objection. It's about the same grievance.

24 JUDGE CENTER: If it's the same objection, then Respondent  
25 Exhibit N [sic] is admitted into the record.

1     **(Respondent's Exhibit M received into evidence.)**

2           MS. DYE:   Okay.  M-1 we have no objection, so that's okay  
3     with us.  We have no objection to Respondent N.  Respondent  
4     Exhibit O we have an objection.  It's related to the grievance  
5     again.

6           JUDGE CENTER:  All right.  Let's back up.  You initially  
7     told me you had an objection to N.  You're withdrawing that  
8     objection?

9           MS. DYE:  I'm sorry, did I say N?

10          JUDGE CENTER:  Yes.

11          MS. DYE:  Yeah, no, I have no objection to N.

12          JUDGE CENTER:  All right.

13          MS. DYE:  There's an M and an M-1 and an N.  M was the one  
14     I had the objection to.

15          JUDGE CENTER:  All right.  All right, so now let's move to  
16     O.

17          MS. DYE:  O is I have the same objection as L; it relates  
18     to the grievance on the selection.

19          JUDGE CENTER:  All right.  That objection on the basis of  
20     immaterial is rejected, and Respondent's Exhibit O is admitted  
21     into the record.

22     **(Respondent's Exhibit O received into evidence.)**

23          JUDGE CENTER:  Q?

24          MS. DYE:  We have no objection.

25          JUDGE CENTER:  To Q?

1 MS. DYE: No objection to Q.

2 JUDGE CENTER: All right.

3 MS. DYE: Respondent -- no, wait, were you saying -- oh,  
4 so now you're saying Q. I was saying we have no objection to  
5 P; is that right?

6 JUDGE CENTER: No, I asked you about Q. We haven't -- I'm  
7 asking --

8 MS. DYE: We do have an objection to Q.

9 JUDGE CENTER: -- you about the list you gave me.

10 MS. DYE: I'm sorry. We do have an objection to Q. It is  
11 -- it's also on the grievance, relates to the grievance. It's  
12 immaterial to the matter at hand here.

13 JUDGE CENTER: The objection on the basis of immaterial is  
14 overruled, and Respondent's Exhibit Q is admitted into the  
15 record.

16 **(Respondent's Exhibit Q received into evidence.)**

17 MS. DYE: I think we have an objection to Respondent's  
18 Exhibit R and Exhibit S and Exhibit T and Exhibit U for the  
19 same reason, which is these are documents which were created  
20 for the express purpose of this litigation. These are not  
21 documents that existed, you know, prior to the ULP being filed  
22 or anything. They're not documents I think that can be -- are  
23 worthy of entering into the record as evidence. If somebody  
24 can testify to the stuff that's in here, but I don't think they  
25 should be entered into as separate documents.

1 JUDGE CENTER: On the basis of?

2 MS. DYE: That they are documents that are created for the  
3 purpose of litigation. They're not trustworthy and that they  
4 haven't -- they weren't created in an unbiased manner prior --  
5 you know, during the time that these things were happening.  
6 The documents that I'm submitting --

7 JUDGE CENTER: That would be true of any affidavit that's  
8 ever presented in a case. You're telling me that affidavits  
9 shouldn't be admitted?

10 MS. DYE: Affidavits -- I'm not talking about affidavits.  
11 I'm talking about to the extent this is about information that  
12 they can have somebody testify to, they should have somebody  
13 testify to it, not put it into a document.

14 JUDGE CENTER: Well, they're entitled to try their case  
15 the way they want to try it, and I haven't heard anything yet  
16 that sounds like an objection on the basis of something that's  
17 objectionable.

18 MS. DYE: Well, the objection is that they're -- that the  
19 Agency is creating documents for the purpose of --

20 JUDGE CENTER: So your objection is it's an unreliable  
21 document.

22 MS. DYE: That's right. It's an unreliable document.

23 JUDGE CENTER: You can prove that as part of your case.  
24 Respondent's Exhibits R, S, T and U are admitted into the  
25 record.

1   **(Respondent's Exhibit R, S, T and U received into evidence.)**

2           MS. DYE: We reject Respondent's Exhibit V. First of all,  
3 the first page seems to be like half cut off, so we can only  
4 read half of it, and then --

5           JUDGE CENTER: So you've got a completeness objection.

6           MS. DYE: Well, for that page, but with regard to  
7 everything about the entire exhibit, these are emails that have  
8 been sent in by private lenders like, you know, private  
9 individuals that work with the different programs within the  
10 Agency, and so they're -- the information that they're  
11 describing is information about the effect of the change on the  
12 general public rather than the change on the bargaining unit  
13 employees, and I don't think they can be relied upon in terms  
14 of -- they were all -- I think that they were requested by the  
15 Agency office. They're all dated shortly before the  
16 litigation, and I don't think they should be -- I don't think  
17 they're relevant, and I don't think they should be used.

18          JUDGE CENTER: All right. So your objection is on the  
19 basis of relevance?

20          MS. DYE: Yes.

21          JUDGE CENTER: All right. Counsel?

22          MR. MONTGOMERY: One of the issues in this case, Judge, is  
23 that if you should decide that anything the Agency did was in  
24 violation of law and had to implement a remedy, the question of  
25 whether a status quo ante remedy will inevitably arise or it

1 has arisen, and the case law, as I understand it, says that it  
2 is very much a relevant issue what the effect would be on both  
3 the Agency itself and the public that it serves. Our witnesses  
4 are going to testify that any such remedy would be greatly  
5 detrimental not only to the Agency's employees, but to citizens  
6 of the State of Texas who it serves, and that's why this is  
7 here. It's for the purpose of arguing what the appropriate  
8 remedy would be if there should be a remedy in this case.

9 JUDGE CENTER: And what about the completeness issue?

10 MR. MONTGOMERY: I don't know why this particular document  
11 reads the way it does, but if it's a problem we can try to find  
12 another version of it on somebody's computer that doesn't have  
13 the right margin cut off, to substitute it for what we have  
14 here now.

15 JUDGE CENTER: All right. Is it all part of one document  
16 or is that just one document of many? One email? Are they all  
17 separate communications or are they one communication?

18 MR. MONTGOMERY: No, they are -- well, this particular  
19 exhibit, Exhibit V, I believe, is two emails that have been  
20 stapled together because they address the same subject matter.

21 JUDGE CENTER: So they're two separate --

22 MR. MONTGOMERY: Documents.

23 JUDGE CENTER: -- communications within that exhibit?

24 MR. MONTGOMERY: Yes.

25 JUDGE CENTER: And the first one is not complete?



1 MR. MONTGOMERY: Correct.

2 JUDGE CENTER: All right.

3 MS. DYE: Your Honor, may I add something?

4 JUDGE CENTER: Sure.

5 MS. DYE: To the extent these are exhibits -- that these  
6 are emails that purportedly are coming from the public, how are  
7 we to authenticate these documents? I mean, who are they --  
8 who is going to testify about what's in the documents?

9 MR. MONTGOMERY: Our witnesses will do that.

10 MS. DYE: But did the witnesses write them?

11 MR. MONTGOMERY: Of course not. That's precisely why  
12 these exhibits are being offered, to show that our own  
13 witnesses are the only people in the world who believe that the  
14 reorganization plan has been a good thing.

15 JUDGE CENTER: Your objection is?

16 MS. DYE: They can't be authenticated. I don't think that  
17 they're reliable.

18 JUDGE CENTER: All right. The objection on the basis of  
19 reliability and relevance is overruled. The question of  
20 completeness I want --

21 MR. MONTGOMERY: We'll address it before we get to the  
22 exhibit during our case this afternoon, Your Honor.

23 JUDGE CENTER: All right. I'm going to withhold ruling on  
24 the completeness objection until we find out if we have a  
25 complete document.

1 All right. Next, as I have it, is Respondent's  
2 Exhibit W.

3 MS. DYE: Yes, it's -- they are the same thing; it's  
4 different emails from people on the outside. We have exactly  
5 the same objection.

6 JUDGE CENTER: All right. Is there a completeness issue  
7 on those?

8 MS. DYE: No, there is no completeness issue.

9 JUDGE CENTER: So your objection is relevance and  
10 reliability?

11 MS. DYE: Um-hum.

12 JUDGE CENTER: All right. On the basis of objecting upon  
13 relevance and reliability, the objections are overruled and  
14 Respondent Exhibit W is admitted to the record.

15 **(Respondent's Exhibit W received into evidence.)**

16 JUDGE CENTER: Next I have AA.

17 MS. DYE: I'm really not sure what it is. It was -- it's  
18 a little confusing. It's got a lot of different page numbers,  
19 like 6, 11 and 6 and 4, so I sort of -- my objection -- I can  
20 almost not make an objection because I don't really know what  
21 it is to be able to say whether it's relevant to what we're  
22 testifying about today. I sort of --

23 JUDGE CENTER: Counsel, can you help explain --

24 MR. MONTGOMERY: Yes.

25 JUDGE CENTER: -- what the purpose is?

1           MR. MONTGOMERY: Yes. These are excerpts from a much  
2 larger document called a state internal review, which is  
3 something that is done from time to time where the operations  
4 of particular offices within a particular state are  
5 comprehensively examined for the purpose of making the Agency's  
6 own judgment of how well they are functioning. And  
7 Ms. Jordison is going to testify about what the effects have  
8 been on these various offices that are mentioned in the  
9 excerpted pages: Mount Pleasant, Bryan, Fort Stockton, and so  
10 on.

11           Now as I say, these are excerpted from a much larger  
12 document and the reason we are only presenting these particular  
13 pages, is that these are the only ones the witness intends to  
14 talk about. Now, having said that, if the other side feels  
15 that it would be of any use to them, I can certainly get a copy  
16 of the entire thing for them to look at and see if there's  
17 anything in the larger document that they want to use.

18           JUDGE CENTER: All right. Counsel, do you have any better  
19 understanding of what he's, the purpose he's --

20           MS. DYE: Yes, I have a better understanding, and I think  
21 I would like to see the rest of the documents. Or, I mean, how  
22 many pages are we talking about? Are we talking about like --

23           MR. MONTGOMERY: Oh, it's hundreds of pages.

24           MS. DYE: -- full binders?

25           MR. MONTGOMERY: Yeah, it's hundreds of pages long.

1 That's why we didn't want to try to put the whole thing into  
2 the record.

3 MS. DYE: No. I'm going to take away my objection. This  
4 is fine.

5 JUDGE CENTER: All right. So AA is admitted into the  
6 record. Respondent AA is admitted into the record.

7 **(Respondent's Exhibit AA received into evidence.)**

8 JUDGE CENTER: Next I have EE.

9 MS. DYE: EE, FF and GG, I just received these documents.  
10 They were not part of the Respondent's prehearing disclosure.  
11 This is -- and specifically, E relates to -- just prior to the  
12 General Counsel issuing a complaint, we notified the Agency  
13 that we were going to issue a complaint, and they sent a  
14 settlement offer to the Union offering settlement, and they are  
15 -- I think they're purporting to enter this into the document  
16 to show that they, in fact, did complete their bargaining  
17 obligation by offering to bargain after the General Counsel  
18 issued complaint. So it's part of settlement discussions,  
19 which shouldn't be entered into the record, and they're  
20 offering it for the purpose of showing that they fulfilled  
21 their bargaining obligation. I don't --

22 JUDGE CENTER: All right. So --

23 MS. DYE: -- think it should be allowed in because it's  
24 about settlement and, you know, if the Union had to worry about  
25 whether or not things that are, you know, done during

1 settlement are going to be entered into evidence and address  
2 them as part of their case in chief, you know, that's going to  
3 make unions wary of entering into settlement negotiations with  
4 agencies.

5 JUDGE CENTER: All right. If I understand your objection,  
6 then, your first objection is on the basis that it was not  
7 provided as part of prehearing disclosure. Your second  
8 objection is on the basis that it involves settlement  
9 discussions that are not appropriate for admission into the  
10 hearing.

11 MS. DYE: Yes.

12 JUDGE CENTER: Those are your two objections.  
13 Counsel?

14 MR. MONTGOMERY: Just grant me a moment.

15 JUDGE CENTER: And just to make everything clear, her --  
16 Counsel's representation concerning documents involving  
17 settlement is an accurate description of our regulations and  
18 the law. So if they are related to settlement, you can tell  
19 me.

20 MR. MONTGOMERY: We'll withdraw the exhibit.

21 JUDGE CENTER: All right. Is that EE, FF and GG, all  
22 three?

23 MR. MONTGOMERY: No, just EE.

24 MS. DYE: No, FF and GG are something else.

25 JUDGE CENTER: Okay. EE, then, is withdrawn and will not

1 be admitted into the record.

2 **(Respondent's Exhibit EE withdrawn.)**

3 JUDGE CENTER: FF?

4 MS. DYE: FF -- okay, I don't know which one is supposed  
5 to be FF. I think it's the August 1st one. It is the notes  
6 taken by an individual at a meeting between the Agency and the  
7 Union which occurred on August 1st, 2014. My objection to this  
8 is it existed prior -- at the time that we did prehearing  
9 disclosure, it wasn't entered -- offered as an exhibit at that  
10 time and it was only given to me yesterday. So I have, you  
11 know, I have not had a chance to look at them, you know, in  
12 terms -- I mean, I've looked at them, but I really have not had  
13 an opportunity to, you know -- it's not that they're not  
14 relevant. But to the extent they are relevant, they were  
15 relevant two weeks ago when we were supposed to be doing our  
16 prehearing disclosure, and I don't think they should be allowed  
17 to enter in documents that they didn't -- that existed at the  
18 time and they didn't submit.

19 JUDGE CENTER: All right. Are any of your witnesses party  
20 to this meeting?

21 MS. DYE: Yes.

22 JUDGE CENTER: So how are you prejudiced by the fact that  
23 this document comes in?

24 MS. DYE: I'm prejudiced by the fact that I entered my  
25 documents two weeks ago and haven't given any more documents,

1 and they are -- you know, they should be required to comply  
2 with the regulations just like we do, and submit evidence that  
3 they're going to use which existed at the time. It's not  
4 documents that they just discovered it. They shouldn't be able  
5 to --

6 JUDGE CENTER: Counsel?

7 MS. DYE: -- admit documents later.

8 MR. MONTGOMERY: Judge, the reason these two exhibits were  
9 presented at the time they were is that yesterday, when we were  
10 all meeting together and talking about this case, we happened  
11 to ask Ms. Jordison that -- who's is this?

12 MR. KEIM: Mr. Lambright.

13 MR. MONTGOMERY: Yes, Mr. Lambright -- we asked them if  
14 they had any notes created contemporaneously with the August 1  
15 meeting that we didn't know about, and Ms. Jordison said like,  
16 I think I may have something on my computer; there are  
17 thousands of things there, but I can go look and see if I can  
18 find it, and this is what she found. Similarly Mr.  
19 Lambright --

20 JUDGE CENTER: Now is Mr. Lambright GG?

21 MR. MONTGOMERY: Yes.

22 JUDGE CENTER: So your objection to GG is the same thing  
23 so we can --

24 MS. DYE: Yes.

25 JUDGE CENTER: -- knock them both out?

1 MS. DYE: Yes.

2 MR. MONTGOMERY: Okay. And he said I think I may have  
3 some handwritten notes in my desk or in my file somewhere and  
4 he went and looked for that and that's what he found.

5 Actually the real reason that I put them in and gave them  
6 to the other side is that I wanted to be fair to them to allow  
7 them to have materials that they might need for cross-examining  
8 our witnesses. Our witnesses are going to speak for themselves  
9 about what happened at that meeting. I just felt these had to  
10 become part of the record because the other side might feel  
11 that they have the right to try to hold our witnesses to what  
12 they said in writing at the time, which I think would be  
13 entirely fair of them if --

14 JUDGE CENTER: Counsel?

15 MR. MONTGOMERY: -- they wanted to do that.

16 MS. DYE: I'll withdraw my objection.

17 JUDGE CENTER: To EE and -- or to FF and GG?

18 MS. DYE: Yes.

19 JUDGE CENTER: All right.

20 MS. DYE: Although I need to know which is GG and which  
21 one is FF. One is dated July 15 and one is dated August 1.

22 MR. MONTGOMERY: August 1st is FF, and July 15 and the  
23 following handwritten pages are GG.

24 MS. DYE: Thank you.

25 JUDGE CENTER: Counsel, thank you for withdrawing your



1 objection to those documents. But just for future reference, I  
2 can tell you they were probably coming -- they were coming in  
3 based upon the fact that the Respondent only found them  
4 yesterday as well and they really present no prejudice to you  
5 and may actually help your case, so --

6 All right. So that takes care of all the exhibits you  
7 have objections so.

8 MS. DYE: Yes.

9 JUDGE CENTER: So the additional objections which are  
10 basically Respondent's Exhibit L through GG are not objected  
11 to, other than the ones we've already discussed?

12 MS. DYE: That's right.

13 JUDGE CENTER: All right. Then Respondent's Exhibits L  
14 through GG are admitted into the record, other than -- did I  
15 strike one? I think we've got one --

16 MS. DYE: Yes.

17 JUDGE CENTER: We've got V, which --

18 MS. DYE: EE.

19 JUDGE CENTER: Yeah, EE was withdrawn by the Counsel.

20 MS. DYE: Oh, sorry.

21 JUDGE CENTER: So EE is not admitted, and V we're still  
22 holding out on with respect to a completeness issue.

23 MS. DYE: Yes.

24 JUDGE CENTER: So everything except V and EE through --  
25 Respondent L through GG is admitted into the record.

1   **(Respondent's Exhibits N, P, and BB through GG received into**  
2   **evidence.)**

3           JUDGE CENTER: Counsel, do we already have a completeness  
4   solution?

5           MR. MONTGOMERY: I was just asking my colleague. Yes, we  
6   do have a copy of that page that doesn't have the right margin  
7   cut off.

8           JUDGE CENTER: All right. Well, then if you could upon  
9   your first opportunity provide that to the General Counsel and  
10  maybe we can resolve that issue.

11          All right. Any other preliminary matters?

12          MS. DYE: I think there are none of the witnesses here and  
13  the union vice president will be sequestered as well, so I was  
14  just going to call for the sequestration of witnesses, but I  
15  don't think any of them are in the room right now, so --

16          JUDGE CENTER: Counsel?

17          MR. MONTGOMERY: Ours are not.

18          JUDGE CENTER: All right. Let's go ahead and I will rule  
19  that witnesses are to be sequestered and they are to be  
20  instructed to not discuss their testimony with each other while  
21  they're outside of the hearing room.

22          Counsel, are you ready to make your opening statement?

23          MS. DYE: Yes.

24          JUDGE CENTER: Proceed, please.

25                                   OPENING STATEMENT

1           MS. DYE: Your Honor, the General Counsel is alleging that  
2 Respondent, the United States Department of Agriculture, Rural  
3 Development, Temple, Texas, violated Section 7116(a)(1) and (5)  
4 of the Statute by refusing to bargain with the American  
5 Federation of Government Employees, Local 571, over a change to  
6 the 502 Direct and Guaranteed Single Family Housing Loan  
7 Processing Programs.

8           The General Counsel's evidence will show that prior to  
9 2012, the 502 Guaranteed Single Family Housing Program was  
10 centralized, but due to attrition more and more of the work had  
11 been sent out to the 25 area offices around the state. By  
12 2014, it was the normal practice to have the area office  
13 employees working on the 502 Guaranteed Single Family Loan  
14 Program as a regular part of their duties in addition to all  
15 the other programs, including the 502 Direct Single Family  
16 Housing Program which had never been centralized. In fact,  
17 some employees in the area office were specialized and only  
18 worked in the 502 Guaranteed or 502 Direct Single Family  
19 Housing Programs.

20           On July 3, 2014, Respondent notified the Union of its  
21 intent to centralize the 502 Direct and Guaranteed Single  
22 Family Housing Programs and gave the Union 10 days to respond  
23 with proposals. The evidence will show that there is nothing  
24 in the parties collective bargaining agreement which requires  
25 the Union to submit a demand to bargain or its proposals within

1 10 business days. This is the first time Respondent required  
2 the Union to submit its proposal in accordance with a deadline  
3 set by Respondent.

4 On July 15, 2014, the Union demanded to bargain over the  
5 change, submitted written proposals and requested to meet and  
6 negotiate during the week of July 28, 2014. By letter dated  
7 July 30, 2014 and in a meeting on August 1, 2014, Respondent  
8 refused to bargain a change with the Union. Respondent  
9 implemented the change on August 5, 2014.

10 Based on the evidence to be submitted during the hearing,  
11 the evidence will demonstrate that Respondent violated Section  
12 716(a)(1) and (5) of the Statute by refusing to bargain over a  
13 change which had more than a de minimis impact on bargaining  
14 unit employees.

15 As a remedy, the General Counsel seeks the posting of a  
16 notice to employees signed by State Director, Rural Development  
17 to be posted in conspicuous places including all bulletin  
18 boards and other places where notices to employees represented  
19 by the American Federation of Government Employees, Local 571  
20 are customarily posted, including distribution of the notice by  
21 electronic mail to all unit employees. The General Counsel  
22 will also seek an order requiring Respondent to cease and  
23 desist from changing the conditions of employment for  
24 bargaining unit employees without first providing the Union an  
25 opportunity to bargain over the change to the Direct Guaranteed

1 Single Family Housing Loan Programs.

2 The General Counsel also requests that Respondent be  
3 ordered to return to the status quo ante that existed prior to  
4 the change in this case and, upon request, bargain with the  
5 Union over any proposed change to the Direct and Guaranteed  
6 Single Family Housing Loan Programs.

7 As to the status quo ante remedy, the General Counsel's  
8 evidence will show that on June 5, 2014, Administrative Program  
9 Director Sylvia Maedgen emailed Renee Young, the Union's acting  
10 vice president, and requested that the Union meet  
11 pre-decisionally about the possibility of centralizing the  
12 Single Family Housing 502 Guaranteed and Direct Loan Programs.  
13 The Union agreed and at a labor-management forum meeting on  
14 June 25, 2014, Respondent and the Union discussed the matter,  
15 but came to no agreement. The parties agreed to meet again as  
16 part of the labor-management forum.

17 On June 26, 2014, Maedgen requested the Union to meet with  
18 the labor-management forum the next day to continue the  
19 pre-decisional discussions; however, the Union requested to  
20 reschedule the meeting because the Union had not had a chance  
21 to further discuss the matter and Renee Young was scheduled to  
22 go on leave for several weeks starting on June 27, 2014.

23 The parties did not meet on June 27th, and on July 3rd,  
24 without completing the pre-decisional process, the Respondent  
25 provided notice to the Union of the change. Respondent

1 unilaterally imposed a 10-day deadline on the Union to submit  
2 proposals despite the fact that the union representative, Renee  
3 Young, was on a scheduled annual leave.

4       After the Union submitted its proposals on July 16th, the  
5 Respondent deferred to the Union's demand bargain proposals in  
6 emails between the parties. The Respondent and the Union were  
7 trying to come up with dates on which to bargain, when  
8 Respondent provided the notice to the Union on July 30, 2014,  
9 that because the Union had not submitted proposals regarding  
10 the centralization, the Union had forfeited its right to  
11 bargain. Although Respondent met with the Union on August 1,  
12 2014, it made it clear to the Union that it was not negotiating  
13 with the Union, but would be willing to discuss the Union's  
14 concerns.

15       On July 31st, Respondent sent an email to all bargaining  
16 employees describing and justifying the change that would be  
17 implemented.

18       Later, on February 12, 2015, Respondent notified the Union  
19 that it, quote, "reconsidered and changed its response" to the  
20 Union's demand to bargain and offered to bargain with the Union  
21 over the change.

22       Thus, the evidence will demonstrate that Respondent did  
23 not discharge its obligation to bargain in good faith and  
24 willfully refused to bargain. After the Union requested a  
25 bargain within Respondent's unilaterally set arbitrary

1 deadline, Respondent accused the Union of engaging in stall  
2 tactics by requesting information under the Statute. The  
3 General Counsel's evidence will also demonstrate the change had  
4 more than de minimis impact on the bargaining unit employees.

5 JUDGE CENTER: All right. If I understand you right, your  
6 understanding of the facts is that this workload was  
7 centralized, decentralized, and then re-centralized; is that  
8 right?

9 MS. DYE: Yeah. I think that the evidence will show that  
10 they tried to centralize it several times and it really never  
11 was centralized, and then they really wanted to centralize it,  
12 and that's when they finally did it.

13 JUDGE CENTER: All right. And the other question I wanted  
14 to ask you before I move on to the Respondent is, are we in  
15 agreement that this was an assignment of work and an exercise  
16 of management rights?

17 MS. DYE: Yes, this is impact and implementation only  
18 bargaining.

19 JUDGE CENTER: All right. Very well.

20 Counsel, would you like to make your opening statement now  
21 or would you like to wait until your case in chief?

22 MR. MONTGOMERY: I'd like to reserve it.

23 JUDGE CENTER: You'll reserve it?

24 MR. MONTGOMERY: Yes.

25 JUDGE CENTER: All right. Counsel, are you ready to call

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1 your witness?

2 MS. DYE: Yes.

3 JUDGE CENTER: Who are you calling first?

4 MS. DYE: I'm calling Dorothy Aupperle.

5 JUDGE CENTER: All right. Please bring her in.

6 Ms. Aupperle, if you would, please come right up here to  
7 this chair.

8 THE WITNESS: Right there?

9 JUDGE CENTER: Raise your right hand, please.

10 (Whereupon,

11 **DOROTHY D. AUPPERLE**

12 was called as a witness by and on behalf of the General Counsel  
13 and, after having been first duly sworn, was examined and  
14 testified as follows:)

15 JUDGE CENTER: Please state your name.

16 THE WITNESS: Dorothy D. Aupperle.

17 JUDGE CENTER: And please spell that for the court  
18 reporter.

19 THE WITNESS: Dorothy, D-o-r-o-t-h-y, D, and Aupperle is  
20 A-u-p-p-e-r-l-e.

21 JUDGE CENTER: Counsel, proceed.

22 **DIRECT EXAMINATION**

23 Q. BY MS. DYE: Who do you work for?

24 A. I work for USDA Rural Development.

25 Q. And what's your position with USDA?



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- 1 A. I'm a GS-12, area specialist in the Edna, Texas office.
- 2 Q. How long have you worked for Rural Development?
- 3 A. Almost 23 years.
- 4 Q. You work at -- did you say you work in Area 2, the Edna
- 5 office?
- 6 A. Yes.
- 7 Q. How many employees are in your office?
- 8 A. At this time we only have two employees, an area assistant
- 9 and myself.
- 10 Q. What is an area assistant?
- 11 A. An area assistant is mostly clerical: filing, answering
- 12 the phone, doing the mail, vouchering, things like that.
- 13 Q. Okay. And in terms of the programs of the Rural
- 14 Development, do you -- are you -- does the area office, are
- 15 they responsible for all of the programs of the Rural
- 16 Development?
- 17 A. Yes. Like I'm an area specialist and I'm a general
- 18 specialist on my employee form, so I have to do all programs.
- 19 Q. Can you -- let's describe what some of the program are.
- 20 Can you describe the program?
- 21 A. Okay. We have three sections. We have the business,
- 22 energy, and coop section, and that has different kind of
- 23 business programs, and for example, industry guarantee loans,
- 24 value added loans for producers in small businesses, rural
- 25 development and economic grants. There's like 12 different

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1 programs under that.

2 Q. Um-hum.

3 A. And we do -- we encourage businesses to -- or we encourage  
4 development of businesses in community areas, and we do -- I do  
5 outreach for that.

6 Q. Okay. And is there -- what about rural housing?

7 A. Rural housing, yes. I do rural housing. I do all  
8 programs. I do the 504 repair loan program, the 502 direct,  
9 and guaranteed. I have.

10 Q. And are there any other programs?

11 A. Yes, we have the -- another section is the community  
12 program section where we have water/wastewater programs,  
13 community facilities where we can do ambulances, fire trucks,  
14 hospitals, museums, just about anything that a small community  
15 would need. We could create a small city.

16 Q. Are all these programs -- do they have a program, like,  
17 director that's responsible for the entire state?

18 A. Yes, there is a program director for each section in the  
19 state office.

20 Q. And so they're here in the state office in Temple?

21 A. Yes, ma'am.

22 Q. Okay. So prior to the change here, which wasn't until  
23 2014, can you tell me just generally like who would come in and  
24 on a -- generally what would you do as a specialist?

25 A. Okay. As an area specialist GS-12, I'm supposed to do 80

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1 percent the more complex programs, and that includes the  
2 business programs and the community programs, and under 20  
3 percent of the housing programs. But we don't have a GS-11 or  
4 9, so I was also doing a lot of housing programs.

5 Q. Okay. What did that involve?

6 A. The 502 direct purchase program for low and very low, and  
7 the guaranteed program for low to moderate. And now, that  
8 included making visits, do inspections, dealing with the  
9 architects or, you know, the contractors and stuff to approve  
10 plans, do inspections on the house, that kind of thing.

11 Q. How did the -- how did it come to be that you were working  
12 on these loans or guarantees?

13 A. You mean forever or just --

14 Q. No, I'm sorry. Yes, that was a little confusing. So when  
15 you're working on a loan or something, is this because there's  
16 like an application filed or is somebody applying to --

17 A. Oh, yes. An applicant usually contacts us interested in  
18 getting a home loan or a repair loan for their home, and we  
19 help them fill out application; we discuss, you know, if  
20 they're buying a house, whether they want to do a new  
21 construction or they want to do an existing house. There's a  
22 lot of give and take that I do. I really believe in customer  
23 service, so that was real big with me.

24 If they had credit issues come up on their credit, I would  
25 discuss those with them and see if there was, you know,

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1   extenuating circumstances where we could do a waiver for that  
2   credit.  If they had -- there's three questions:  if it's out  
3   of their control -- beyond their control, temporary in nature,  
4   and the problem has been removed, then we can do a waiver for  
5   that.  And also if they had no credit, we can do a  
6   nontraditional credit.

7           And when they do find a house, either existing or contract  
8   with a builder, then I help them go through the plans or go  
9   through the house and look at things and see if there's any  
10  major problems with the house.  And that usually saves them  
11  money, you know, with an inspector before they do the housing  
12  inspection.

13  Q.    So you actually go on site and do inspections?

14  A.    Yes, ma'am.

15  Q.    Now, is there like paperwork involved in this?

16  A.    Oh, yes.  There's -- the application is filed with us, and  
17  then we have to verify their income, their debts, do a credit  
18  report.  And that usually would be a technician that would do  
19  that, but since we have no technician, my assistant was having  
20  to do all that.

21  Q.    Now, if you were to compare this to something in the  
22  private sector, is this like a realtor or the person who does  
23  -- like the person that you're getting the home loan from or  
24  how would you -- what kind of --

25  A.    Myself?

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1 Q. Yeah, the duties that you are doing.

2 A. It would be sort of like a consultant at the beginning  
3 because I'm kind of coaching them to ask the good questions  
4 from the realtor. We do an orientation for the applicant  
5 before they go out and look for a house, and at that time I go  
6 over what they can expect from us after the loan is done, what  
7 their responsibilities for the house are, and I always go into  
8 the information on realtors and contracts and what to look for,  
9 you know, to be aware of what they're signing, you know,  
10 because they -- once they sign it, that's the contract, so -- I  
11 don't know if I answered your question.

12 Q. Are you like gathering documents from them? I mean, is  
13 this like -- you know, like I bought a house recently and there  
14 was a thing of documents an inch thick. Are you gathering  
15 documents and doing those kind of documents for them?

16 A. At the beginning we do the application; we verify their  
17 income, their debts. They have releases that they have signed.  
18 We do environmental on the house, you know, that they pick. If  
19 it's in a flood zone, we do a flood cert. You know, there's  
20 that Class I where we determine whether or not it's going to be  
21 a problem for the environment.

22 Q. You had talked about, you know, like some people in terms  
23 of not having a credit report that would support one of these,  
24 like, are you doing like credit reports?

25 A. No, if they don't have any credit, then we do what's

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1 called nontraditional credit. It's in the regs that we can  
2 take like their utility bills, their rent, that they pay their  
3 rent regularly. If they have accounts with other than family,  
4 we try to give them every opportunity to create a credit  
5 history of sorts that we can determine whether or not they  
6 would be creditable for a house.

7 Q. Okay. So are you -- are they -- are you actually loaning  
8 them the money? I mean, is the Agency actually loaning them  
9 the money?

10 A. For which program?

11 Q. For either program.

12 A. For the direct program, yes. We are loaning them money  
13 and we also work in -- I've worked in conjunction with Habitat  
14 for Humanity, where they -- they have a forgivable part, and  
15 they do like a forgivable lien, and we do the rest. It's like  
16 a takeout loan. When they finish the house, then we do a  
17 closing. And the money comes -- the takeout loan comes from us  
18 as a direct loan, and if they're not, you know, leveraging it,  
19 then we do the 100 percent, and we can even put in the fees of  
20 the tax -- the tax service fee, the appraisal and the escrow;  
21 we can even loan that.

22 Q. Okay. So besides the 502 direct and 502 guaranteed, do  
23 you work on any of other programs that the Agency has?

24 A. In housing or --

25 Q. Any programs?

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1 A. Okay. Well, I do also do the -- did the guaranteed loans  
2 for housing, where the technician would normally do the tech  
3 review and I would review the file for completeness and  
4 feasibility and do an environmental and review the appraisal  
5 and do a conditional commitment on that. And then when they  
6 close, then I would do a loan note guarantee. And that became  
7 automated about two years ago, I guess, and where we could do  
8 all of that remotely from the field, and since I'm the only  
9 specialist in the office, I had to do that also.

10 And then I also do community programs. I work with  
11 community facilities, public bodies, you know, cities,  
12 counties, economic development corporations, nonprofits,  
13 museums, hospitals, all that kind of thing. They might need  
14 anything from -- like we did a mammogram in Gonzales, we helped  
15 with grant funds for that. And they leveraged funds that they  
16 had gotten from everywhere else with our funds to get a -- it  
17 was a 3D digital mammogram machine. We have done fire trucks,  
18 museums -- we have done museums, libraries, all kinds of  
19 hospital things. I've done several hospital deals.

20 We also do community program loans for water/wastewater,  
21 drainage issues, all that kind of thing, where I would take  
22 applications, meet with the engineers, the architects, go to  
23 the meetings, the councils -- like city council meetings, and  
24 help explain our program and what we can offer, and work with  
25 the engineers to get their preliminary engineering report

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1 completed. And that's quite a process. You know, we have to  
2 get that done, and they do the environmental, which we have to  
3 review, and then submit it all to the state office as complete,  
4 and then we can work towards getting funding for it. And close  
5 it and then do inspections when the construction starts and all  
6 that kind of thing, and the same on the community facilities.

7 If -- once they get funded, we would, you know, work --  
8 get all the documents we need together for closing, and then,  
9 you know, do the closing and then do inspections on the  
10 construction, or if it's equipment, we make sure the equipment  
11 is what they said it is. And we also have to make sure the  
12 procurement method has been followed by regulations, and I work  
13 with the architects and the engineers, and everybody.

14 Q. What is an environmental? You said you did  
15 environmentals.

16 A. Okay. All programs, federal programs we have do to an  
17 environmental and make sure there's no impact to the  
18 environment whatever we're doing. If it's equipment like, say  
19 you're buying a fire truck, well, that's not impacting the  
20 environment because you're not building something or tearing up  
21 dirt. That would be a categorical exclusion. I would just  
22 take their request for an assessment and review that and see if  
23 there was any issues on there that needed further -- you know,  
24 if we had to make it a Class I, you know, make it go up a notch  
25 because, say, they're in a flood zone and they say they're not



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1 on the request, but I find out they are, then that might make a  
2 Class I out of that.

3 And that's all programs for anything that has to do with  
4 construction where you're actually moving dirt. I've had to  
5 work with archeologists. Like we had one program that was  
6 \$300,000 in the loan and grant for an archeologist to go ahead  
7 of them as they dug to check for artifacts. And, you know,  
8 then they can go behind them and dig it up and put the  
9 pipeline.

10 Q. What kind of artifacts?

11 A. It was Indian artifacts mostly. Back when -- the one  
12 that's in my mind is the battle in Fannin and Goliad, and that  
13 -- LaBahia -- and that's all historical, very historical area.  
14 So the historical commission, we work with them on everything  
15 to make sure that we're not interrupting or impeding the --  
16 even the appeal of looking down the street and see a water  
17 tower there could change the historical appearance of the area.  
18 I mean, it's very important that we understand the impact to  
19 the environment, and that includes the historical, that  
20 includes fish and wildlife. If a whooping crane flies over and  
21 -- I've had one where we had -- it was going to be a bait store  
22 right on the water, and the canal had just been built by the  
23 Corps of Engineers, but I still had to do another environmental  
24 because they felt like the fish had already began to have their  
25 natural habitat there, so they had been doing their thing there

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1 and they didn't want that affected in any way. They didn't  
2 want, you know, electric lines to catch the whooping cranes  
3 or --

4 Q. So when you're doing environmental, are you -- like how  
5 do you know that there's Indian artifacts buried somewhere? I  
6 mean, I know now because you have a lot of experience you might  
7 know, well, that's what we have -- they built something on this  
8 last year so I know it's there. But, I mean, how did you know  
9 in the first place?

10 A. Well, because we have to do letters to the Indian tribes,  
11 and we go online and there's a website where we can look up and  
12 see what Indian tribes have claims, I guess is a good way to  
13 put it, on this area. Say, Goliad, what Indian tribes have a  
14 claim on that, and then you would write letters to those Indian  
15 tribes and find out if they had any problems with what the plan  
16 was, even as far as sending them a small summary of what they  
17 were going to -- what was going to happen with this project.

18 That's the same with the Fish and Wildlife, with the  
19 historical commission, you know, anybody that might be  
20 affected. It's under the NEPA regulations, the  
21 National Environmental Protection Agency. All federal loans  
22 have to have an environmental and include all that.

23 Q. Now, you were talking about like Indian tribes. Is it  
24 like environmental meaning like the environment and maybe some  
25 cultural things, too?

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1 A. Well, the Indian tribes are mostly concerned about burial  
2 grounds. And they may have, you know, burial grounds in that  
3 area, and such as -- even later on with cemeteries, you know,  
4 the Indian tribes are real worried about their burial grounds  
5 being dug up, and they, I guess, know where they all are and  
6 they would -- I tell them where it's going to be and what's  
7 going there, and they would come back with the responses to  
8 whether they had any interest. If they do have interest, then  
9 we have to include them in everything as we go along, you know,  
10 processing that application.

11 Q. And what does that involve?

12 A. That, like giving you an example on the historical, we  
13 would send them a letter of, like I said, the plan, what the  
14 project was going to do. And then they're going to tell us,  
15 okay, well, are you changing the facade or are you changing the  
16 look of the building; are you changing -- and the water tower,  
17 is it changing the appearance of the skyline? And that was a  
18 big concern from them on the water tower, because --

19 Q. But do they have like some say in it or like they --

20 A. Oh, yes.

21 Q. -- could make objections or something?

22 A. They make recommendations, and I make recommendations for  
23 mediating that issue.

24 Q. And you said something about NEPA. Is that like a federal  
25 agency?

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1 A. That is a federal agency, National Environmental  
2 Protection Agency.

3 COURT REPORTER: Could you spell that, ma'am. NEPAS?

4 THE WITNESS: NEPA, N-E-P-A. It's an acronym.

5 Q. BY MS. DYE: So you're working with federal agencies like  
6 with environmental stuff? Do you work with the EPA?

7 A. I have requested information from them. I have worked  
8 with state agencies, the state department of agriculture. I  
9 have worked with attorneys, architects, engineers. You know, I  
10 work with all sides of professional dealings with anything to  
11 do with the application.

12 Q. So when you're gathering all this information, are you  
13 going to be, like, putting it into a database; are you going to  
14 be writing a report? What are you doing with it once you  
15 gather it? Is somebody else going to deal with it or are you  
16 dealing with it?

17 A. Right. Some of -- a lot of stuff I deal with is, like I  
18 said, the -- backing up the environmental information. It does  
19 go into a database, and we even are -- right now we are  
20 developing a database that the applicant can actually access  
21 and do some of their own input, which is going to help save us  
22 a lot when that gets all done.

23 Q. That's just starting out?

24 A. Yeah. But up till that happens, we have to, you know, get  
25 it on paper, get it in the computer. It's a program called

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1 CPAP, and it stands for Community Programs Application Process.  
2 Getting that in there and making sure everything's -- you know,  
3 all the forms are filled out and completed and signed. We have  
4 to deal with banks and lenders to make sure that they have  
5 tried to get loans other places.

6 Q. Do you --

7 A. Go ahead.

8 Q. Do you -- so you said something about CPAP. Is that just  
9 for the community program? Do you have software for  
10 different programs?

11 A. Yes. We have -- for our housing and multi-family  
12 properties, we have what's called MFIS, and actually the --  
13 companies use what's called Mink and it marries up to -- you  
14 know, they talk to each other, so that they can input like  
15 their financial information, their balance sheet, and budgets  
16 and things like that instead of mailing them. So we save  
17 paper, and that way I can pull them out. But they still have  
18 to send me narratives and, you know, if it says other, I have  
19 to know what that other is and they'll send me like an  
20 attachment that has a listing of everything under that other  
21 costs.

22 Q. And this is different software from the CPAP you  
23 mentioned?

24 A. Yeah, CPAP is for the community program issues. The MFIS  
25 and Mink are for the multi-family. And then we have for the

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1 housing we have UniFi in the field office, which is the actual  
2 input of the application into the database from the  
3 application, and then it uploads to what's called FiServ, and  
4 that's where the national office in St. Louis does all the  
5 documentation for the loan, and they keep copies of everything  
6 there.

7 Q. Okay. You mentioned multi-family housing. Is that what  
8 the 502 direct and guaranteed are?

9 A. No.

10 Q. Okay.

11 A. Multi-family housing is eight or more units of like  
12 apartments. An investor would do a direct loan or a guaranteed  
13 loan to build a property to house, say, 24 units or 36 units or  
14 how many ever the feasibility report showed would be viable for  
15 that community, and that investor would work with us on an  
16 application. Now, the underwriting of that is done in the  
17 state office. But in our office I would be doing -- like if  
18 they're re-doing an apartment, like they're rehabbing it, then  
19 I would be doing like inspections on those units before the  
20 work was done, and then as the work gets done, I would also be  
21 doing inspections of that work to make sure it was complete and  
22 they had spent the money wisely.

23 Q. Unit inspections, are you talking about going to actual  
24 apartments, inside the apartments?

25 A. Yes, ma'am.

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1 Q. And you said something about checking to make sure that --  
2 inspections to make sure that they had done everything in terms  
3 of regulations. What kind of regulations?

4 A. The 3560 regulations under the C.F.R., it has three  
5 handbooks for us to use for a guide. The first handbook is for  
6 loan making, the second handbook is for servicing, and the  
7 third handbook is for problem children, you know, the ones that  
8 aren't paying or aren't doing what they're supposed to, and  
9 maybe they need a special market rent because they're not  
10 renting out in that area for some reason or they have a non-  
11 monetary issue where they're out of compliance with ADA or  
12 they --

13 Q. ADA being what?

14 A. Oh, accessible for disability issues, like ramps and, you  
15 know, toilets that are high enough to sit on, and we have to  
16 check for that when we do our inspections. We don't approve,  
17 but we recommend, and they have to do a transition plan if  
18 there are any unresolved issues that they're going to go in and  
19 change. Say, they don't have the -- under the vanity is not  
20 open so a wheelchair can pull right up under the vanity, then  
21 that has to be fixed. Well, they can put a transition plan,  
22 which we want -- you know, we go -- when we do our inspection,  
23 we're going to go see and make sure they are following that  
24 plan every year and they're completing those things as planned  
25 or else we have to give them the letter "And why aren't you

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1 doing this?" and then get them back on track.

2 Q. You mean like, okay, maybe you don't have to do all of it  
3 at once because it would be too expensive and you can't, so one  
4 unit at a time according to this schedule or something?

5 A. Well, that's their -- they develop what they feel like  
6 they can afford. A lot of properties are older properties that  
7 the structures are not feasible so it takes quite a bit of  
8 money to, say, make a bathroom big enough for a wheelchair to  
9 get into. So they would have to really have money in the  
10 reserves -- and that's another thing I do, is I have to  
11 supervise that reserve account and make sure they're putting  
12 their money in that account, make sure that they are getting --  
13 we have to sign off on every check that comes out of that  
14 account and keeping track of it in the MFIS database.

15 Q. And so when somebody wants to build one of these multi-  
16 family housing, how do they come to the Agency to get help and  
17 what kind of help can they get? Are we talking about loans and  
18 grants or --

19 A. Well, there's two ways they can go. The direct program,  
20 we don't make very many new loans anymore, but there have been  
21 some rehab loans come through to get them back up to, you know,  
22 safe and habitable. There's more guaranteed funding available  
23 for the guaranteed, guaranteed housing, the guaranteed multi --

24 Q. What does guaranteed mean?

25 A. Guaranteed means that a lender is going to actually loan



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1 the money and they get syndication on the -- some of the cost  
2 from tax credits and stuff like that. And all together, they  
3 go in and they put this application together and, you know, we  
4 look at it and -- the underwriting of that is done in the state  
5 office, but we have reviewed it in the field. Of course, the  
6 environmental I would do and the inspections I would do when  
7 the work was being completed. But they hear about it from when  
8 I go out and talk about it to events and city council meetings  
9 and commissioner court meetings, and I attend regularly  
10 community -- they call it community coffee, but it's like a  
11 community leaders meeting once a month they have, and do a  
12 presentation on all of our programs. I try to talk about all  
13 40 plus programs as much as I can, time allowing.

14 Q. So what's the difference between direct and guaranteed?

15 A. On which program? Oh, on any program a direct is our  
16 money. A guaranteed program would be the lender's money.

17 Q. When you say our money, you mean RD --

18 A. RD. Well --

19 Q. -- actually lending money?

20 A. Federal. Federal money.

21 Q. Okay. Actually lending money to do something?

22 A. Correct.

23 Q. That then is paid back to the federal government?

24 A. Yes. And we subsidize the interest rate and with rental  
25 assistance and -- on the multi-family.

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1 Q. And you said something about, you know, like if there's a  
2 problem because they're not paying, what do you -- I mean, are  
3 you involved with that?

4 A. Oh, yeah. If they get delinquent on their payment -  
5 recently a lot of issues have come up with the funding for the  
6 rental assistance, and if they run out of the funds for the  
7 rental assistance, then they'll become delinquent on their  
8 payment because they're only paying their part and the rental  
9 assistance actually pays part of their payment. So then I have  
10 to work with them and make sure that they do the right forms  
11 and get the information to the Centralized Servicing Center, to  
12 make sure that everything is done timely so that when the money  
13 becomes available it can retroactively be applied to that loan.

14 Q. When you say rental assistance, are you saying this is  
15 something that the people that own the apartment complex are  
16 getting or is this something that the unit people are getting,  
17 the people that the --

18 A. The tenants. This is tenant -- that's a tenant-based  
19 subsidy. The interest credit -- say, they've got a loan at --  
20 well, now it's way cheaper, like 5 or 6 percent, but we can  
21 subsidize the borrower down to 1 percent depending on which  
22 plan they apply for. And the rental assistance is a tenant-  
23 based subsidy, which we have so many units per property. You  
24 know, it depends on what they feel is necessary for the  
25 community and that goes into a lot of feasibility studies and

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1 stuff like that. Some properties have a lot of rental  
2 assistance, and all the tenants will have rental assistance to  
3 help them get down to 30 percent of their income as rent. Some  
4 even -- there's even a utility allowance so that if they make  
5 so little money that they barely make their rent and the rental  
6 assistance pays all their rent, they may even get a utility  
7 check.

8 Q. Is this because the area is like --

9 A. Very impoverished.

10 Q. -- economically poor?

11 A. Yes.

12 Q. So are you like giving vouchers or is that like a  
13 different program?

14 A. The voucher program was brought into existence because  
15 there was a lot of misplaced tenants that when a property was  
16 foreclosed on or prepaid -- like they paid off and they didn't  
17 want to be in the program anymore, then they have to go through  
18 a prepayment deal where they have to do certain things. We  
19 have to do market rent review and appraisals, and we have to  
20 make sure that that property is not -- you know, has a big  
21 necessity or if the -- and we issue vouchers, we set it up and  
22 do tenant meetings and talk to them about it so they're not  
23 scared that they're going to lose their home. And we do a  
24 voucher that helps them between what they're paying out and the  
25 market rent for that area. Like if they're paying \$100 a month

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1 right now, the day it's foreclosed on, then the market rent,  
2 say, is \$700 a month in that area -- not our properties, but  
3 regular, you know, properties -- then we would do a voucher for  
4 that difference.

5 Q. For the person to go from the property that is RD property  
6 to a non-RD property?

7 A. To anywhere.

8 Q. Okay. So are you involved in foreclosures?

9 A. Yes. I do -- we do servicing on all our programs. The  
10 foreclosures mostly occur on the multi-family and the housing.  
11 We do all the servicing on the single family housing.

12 Q. What does servicing mean?

13 A. Servicing means we're keeping track of -- if they're  
14 delinquent, the Centralized Servicing Center sends reports,  
15 does reports on who's delinquent. And we get cues on like --  
16 say, they pay off and now they're -- sorry -- they have subsidy  
17 over the 33 years of the loan, that subsidy is subject to being  
18 recaptured. And we have to make sure if they've done any  
19 capital improvements, see if we need to order an appraisal to  
20 see if the property has gained value and, depending on that  
21 computation then, that would determine how much of that subsidy  
22 they pay back, and then that would become a receivable.

23 So that's all included in servicing that we still have to  
24 do. And then if they are delinquent, then CSC sends them  
25 letters, but as soon as that starts, we're keeping track of

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1 that so that we know to get ready to go out there and do an  
2 assessment to see if there's any hazardous things, to see if  
3 they're in the house. Maybe they have vacated, abandoned the  
4 house. We've worked with the city to like, say, the lawn's not  
5 mowed and it's grown up over the house and maybe the house  
6 isn't locked anymore, so we have to task -- we used to do it  
7 ourselves, but now we task Centralized Servicing Center to  
8 order an inspection and secure the house.

9 Q. So CSC, is that what you just --

10 A. I'm sorry.

11 Q. Is that the Centralized --

12 A. Centralizing Servicing Center in St. Louis. That is the  
13 national center that -- it's like they take care of the  
14 database for all servicing.

15 Q. So if some property owner who's got a direct loan or  
16 something like that isn't paying their loan, do you get  
17 notified in the area office to go foreclose on this person?

18 A. Right. And we have some customers that actually come in,  
19 they'll come in the office and pay us directly.

20 Q. And what do you have to do in a foreclosure? I mean, how  
21 do you start that process?

22 A. Once they've been accelerated and everything's in line, we  
23 would do a -- like I said, do an inspection, and we would send  
24 it to Office of General Counsel to send us back the foreclosure  
25 process, to post the notices. I'd be appointed substitute

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1 trustee to represent the government and post these notices for  
2 sale at the courthouse. And then we have to put it in the  
3 paper that the house is going to set up for sale by auction,  
4 and then I would actually go to the courthouse on foreclosure  
5 day and do the sale, and auction off to the highest bidder. If  
6 nobody bids it, then we would go -- we would make the bid.

7 Q. And just to me make sure. You're going to the courthouse,  
8 standing in some room in the courthouse or something like that?

9 A. No, we have to do it wherever they have designated at the  
10 courthouse. Most counties have designated area for  
11 foreclosures, and if they have designated an area for the  
12 foreclosures, it's recorded in the records, in the county  
13 records. If they've never designated an area, then we can  
14 actually designate the area. But that has never happened with  
15 me. We have always had the court -- you know, the counties  
16 have always had a place they want it to be held.

17 Q. And you're going and actually auctioning off some of these  
18 properties?

19 A. Yeah, I have to go and I have to tell them who I am. I  
20 have to tell them what I'm doing. I tell them where the  
21 property is. I give them the legal -- I read out the legal  
22 definition. I might have to tell them there's some exceptions  
23 that they have to be aware of. Maybe the taxes have not been  
24 paid for the current year so they're going to have to be  
25 responsible for the taxes. But we have taken that into account

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1 on the net recovery value, because that's a worksheet we have  
2 to do to figure out what the minimum amount we should auction  
3 it for as opposed to keeping it in inventory. So we count all  
4 the cost of keeping it in inventory in that net recovery so  
5 that -- because that would save us money.

6 Q. Now you keep saying we, we, we.

7 A. We, RD, Rural Development.

8 Q. But these are things that you are doing --

9 A. Yes.

10 Q. -- in your position as a GS-12?

11 A. Yes. Somebody has to do it.

12 Q. And these duties that are -- like, you know, doing these  
13 financials and the foreclosures and stuff, is that part of the  
14 reason that you have a 12? Does the complexity of these  
15 programs justify your 12?

16 A. Yes.

17 Q. Okay.

18 A. It's the 80 percent I spoke about. All the community  
19 programs, the business programs are what we consider our most  
20 complex programs, and that's what sustains my 12.

21 Q. Okay. So you were talking about having to see how much  
22 you could take for a property. Are you like doing budgets or  
23 financial statements or things like that?

24 A. You mean for the foreclosure?

25 Q. Yes.

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1 A. Okay. We would take the appraisal. We would order an  
2 appraisal, take the number, you know, what they appraised for  
3 -- say, it's \$50,000 -- and then we would find out what the  
4 cost in the area are for, say, maintenance or cutting the grass  
5 or whatever.

6 Q. Are you doing like surveys to find that out? I mean, how  
7 do you find that out?

8 A. Well, in the past years we have just kept track of what it  
9 costs to do it when we had it in inventory, or maybe it's been  
10 abandoned before we had it in inventory and we had to take  
11 custody of it. Now the numbers, a lot of the numbers, are  
12 coming from the contractor that has contracted the services  
13 from CSC.

14 Q. Okay.

15 A. And that's for the maintenance and the securing the house  
16 type stuff. But then we have to also account for the filing  
17 fees and the, you know, real estate costs. You know, if you  
18 have a realtor that's going to be covering it, you know, be an  
19 exclusive broker, then you have to count in their commission  
20 and you have to count in all those fees. So we try to look at  
21 it whether it's going to be nine months, or a year, or how many  
22 months we think we'll probably have it, and if it's not sold.

23 Q. So are these like multi-family housing, the application or  
24 the foreclosures, are they pretty standard, the same from one  
25 project to another, or --



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- 1 A. Are you talking single family or multi-family?
- 2 Q. No, I'm talking multi-family. We've been talking about
- 3 apartment units and everything.
- 4 A. All right.
- 5 Q. When you have to do an application, somebody comes to you,
- 6 they want to get a direct loan or a guaranteed loan or
- 7 whatever --
- 8 A. For multi-family?
- 9 Q. Yes. Is it like pretty standard among, you know --
- 10 A. There's forms that they fill out, but the state office
- 11 actually does the underwriting of new loans.
- 12 Q. What's the underwriting? You mean dealing with the money?
- 13 A. Pardon me?
- 14 Q. Like giving the money?
- 15 A. No, like underwriting the loan, getting all what they need
- 16 documentation-wise to approve the loan. We used to do it in
- 17 the field office but now the state office does that.
- 18 Q. How long has that been?
- 19 A. A couple of years. They have tried centralizing several
- 20 parts of our service, you know, whatever programs they had
- 21 centralized servicing, and then it came back. They centralized
- 22 the single family, and then it came back. I mean --
- 23 Q. Is that the GS-12 work that you're talking about?
- 24 A. On which part?
- 25 Q. On the multi-family that we've just been talking about?

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1 A. Yes.

2 Q. So the part that a GS-12 would ordinarily do is what's  
3 gone to the central office as well? They're doing it the  
4 central office?

5 A. Some of it.

6 Q. Okay.

7 A. If there's a transfer, no, I still do just the plain --  
8 like if it's they're just changing the management company, I  
9 would do all that in the field office.

10 Q. Okay. And is the state office doing the foreclosures?

11 A. What part of the foreclosure?

12 Q. Any part of the foreclosure. You keep talking about some  
13 of it being transferred, so I'm trying to figure out what it is  
14 that you do. So you're talking about we do the foreclosures,  
15 we do this. I need to know what it is you do.

16 JUDGE CENTER: Counsel, I think more importantly is not  
17 what she does, it's what she's no longer doing or what she used  
18 to do and -- like I have a pretty good understanding now of  
19 what --

20 THE WITNESS: We do a lot.

21 JUDGE CENTER: -- Rural Development does, but --

22 MS. DYE: Okay.

23 JUDGE CENTER: -- I have no earthly idea yet, and we're  
24 almost in an hour in, what changed.

25 MS. DYE: Okay. And part of the reason that she's on the

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1 stand is to get you that general understanding in terms of what  
2 a person is expected to do with these different programs, and  
3 she hasn't even talked at least about one other program that  
4 you do.

5 THE WITNESS: Which one is that?

6 Q. BY MS. DYE: The community facilities.

7 A. Community facilities, we do the underwriting on those in  
8 our office and submit -- we make our recommendations and submit  
9 those to the state offices, that section. And then we, you  
10 know, we -- or they send it back to say, yes, this is a  
11 feasible applicant; this is an eligible project, and then we  
12 would continue getting a full application and submitting that.  
13 When we get everything together and completed and correct, then  
14 we would submit it up for approval and then try to get funding.  
15 Once it was funded, then we would, you know, start proceeding  
16 to close it. And then I would do the closing, and then do the  
17 drafting of the money and do the inspections and stuff like  
18 that.

19 Q. Okay. Okay, so before the change in July of 2014, you  
20 talked about that you did 502 direct and guaranteed loans, and  
21 then there was a change where they centralized those two  
22 things. So you no longer had to do the 502 direct or  
23 guaranteed loans?

24 A. We still have to do the 502 repair loans. Those are the  
25 people that are not very low, and it's very intensive usually

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1 because they have to get bids and everything. And we still  
2 have to have knowledge of all that, you know, processing and  
3 the applications and the computer and the database. And the  
4 504 program we still have to put all that stuff in the database  
5 as well, the UniFi and then up to FiServ. We are still doing  
6 that part of it, and we're still doing all the servicing.  
7 We're still doing all the foreclosing. You know, we watch the  
8 delinquency, you know, whenever it happens, whether it's first  
9 year borrower -- we're still getting some of our first year  
10 borrowers of ours that we have done that are in the numbers.

11 Q. Okay. So the application process, that's what's been  
12 moved to the central office?

13 A. Just for the direct 502 program. And the guaranteed  
14 program, well, the guaranteed program was -- we were told it  
15 was centralized as far as the automation because they automated  
16 it like three or four years ago, and we were doing that out in  
17 the field and doing I thought a very good job of it. We had  
18 done loan note guarantees for quite a time, and then they got  
19 behind on processing of the loans, you know, the reviews, so  
20 that when we start -- caught up on those, and those were all  
21 caught up when the change came about.

22 Q. Okay. So in terms of you not having to do the 502 and --  
23 502 direct and guaranteed loans anymore after the change, how  
24 did that -- what was the impact on you?

25 A. I felt like I've done more with single family housing now

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1 because now I have people -- lenders calling me, telling me,  
2 "Well, you can't process it there?" And I have to tell them  
3 no, I have to refer you to this email or phone number. And  
4 they ask me what the status of their loan is and where it is in  
5 line, and I tell them, well, I can't tell you that because I  
6 don't have access to that, but I can help you by giving you the  
7 web -- you know, the email and the phone number.

8       The direct program, we have a lot of realtors upset  
9 because their applicants aren't being dealt with. We have  
10 applicants themselves calling us and I spent quite a bit of  
11 time on the phone talking to them and telling them that, no,  
12 it's up there; I'm sure it's up there, because if they've  
13 cashed your check, then they have your application.

14       When they first did the change, they were doing just pre-  
15 quals where previously we had to do the full application, and  
16 when you do the full application, you have to give them appeal  
17 rights. If you tell them no, you have to order that  
18 residential credit report and all that. And when they started  
19 the centralization, the full centralization, they started off  
20 by doing just pre-quals. Any loans that were out in the field  
21 prior to that date that they started, we were told to finish.  
22 We had to finish all those, and it was very unreasonable, you  
23 know, to expect that to happen when some offices -- our offices  
24 can have a lot of volume. Those in like, say, the Valley has  
25 tons, and there's certain area offices that are just

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1 overwhelmed and they haven't hired anybody in the field for  
2 quite some time. I mean, we've had two people for four or five  
3 years --

4 Q. So wasn't it a good thing that they took the 502 direct  
5 and guaranteed away from you? Didn't that free up some of your  
6 time?

7 A. No. No. As a matter of fact, I have people calling me,  
8 not just applicants for their application and where it is, and  
9 we have been trying to get some kind of way to find out where  
10 it was so we could at least tell them, yes, they have it, but I  
11 have people calling me from the field offices asking me for  
12 help because --

13 Q. The field offices, is it like the area offices?

14 A. Yes, ma'am.

15 Q. Okay. Go ahead.

16 A. Other specialists, even technicians, that never did multi-  
17 family before calling me and asking me, Dee, can you help me?

18 Q. So you're a specialist, but you have worked in pretty much  
19 all the programs?

20 A. Yes, ma'am.

21 Q. So you have a depth of knowledge for the programs?

22 A. I would think so.

23 Q. So there are other specialists that work in other offices  
24 that don't have to deal with all of them like you have?

25 A. There's some offices that have more specialists. Now,

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1 some offices have two or three specialists. It's getting less  
2 and less, but one may do all multi-family, one may do all  
3 community programs, and one may do water and wastewater. Well,  
4 when all this change happened -- I'll give you an example  
5 without a name, okay? A 12 that had been doing only water and  
6 wastewater calls me, asks me, "Dee, I have no idea what to do.  
7 I have to do all the multi-family now because my multi-family  
8 person is now doing single family direct on the direct team,  
9 and I don't know what to do. I have no clue." And I will walk  
10 them through the MFIS process, how to put budgets in, what to  
11 look for on a budget, how to analyze it. That's very time  
12 consuming.

13 I feel that I spend more time now helping other people,  
14 helping train them, not to mention my own assistant who was  
15 doing nothing but 502 and 504 direct before, and she was also a  
16 primary on the centralization that was out in the field -- she  
17 was listed as a primary and as a technician when she was only  
18 an assistant, but she was doing guaranteed reviews, the tech  
19 reviews.

20 Q. So even though you were actually responsible -- before you  
21 were actually responsible for the 502 direct and guaranteed,  
22 you actually had the assistant working on it, like a  
23 technician?

24 A. Yes. The assistant -- we have no tech so it's just me and  
25 her. And I have no other specialist to do the housing, so I

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1 have to do all the housing that does -- that we are responsible  
2 for. But she was doing the processing of those applications up  
3 to just about approval. I mean, she'd have everything for me  
4 to look at, review and verify, determine whether it was  
5 feasible or not, determine whether the credit was good or not.  
6 This is not really in her pay grade, but we have no choice. We  
7 want to serve the customer.

8 Q. Now, that was before. Now that it's centralized, she's  
9 not on a centralized team?

10 A. No. Now she's like -- well, she's still doing the 504  
11 repair loans and grants and the, you know, the 502 repair, but  
12 there's not that many of those. So I'm having to train her to  
13 do the more complex programs, which are way over her pay grade,  
14 which is -- it's kind of -- she loves helping people just like  
15 I do, so we want to help our customers so we're going to do  
16 whatever we have to do to get it out.

17 Q. But the Agency hasn't actually assigned you the duty of  
18 training anybody, have they?

19 A. No. As a matter of fact, my area director did tell me  
20 that I was our area regional training coordinator, and that has  
21 brought up other issues. I mean, even the program director for  
22 housing has sent out emails saying thanks, Dee, for letting us  
23 know about, you know -- we did a -- they wanted us to review  
24 some restricted use covenants, and she had told them to do  
25 certain things, and I emailed her back privately and said don't



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1 forget to tell them to do -- in MFIS, to go into the screens  
2 under details in MFIS and put it in there, because that's going  
3 to be a cue, and that thing could come up for pre-payment.

4 Well, then she sent out an email to all the field, and she  
5 always titles her emails to everybody, but then she says, you  
6 know, if you're not doing multi-family, disregard, delete, you  
7 know. But, okay, everybody in the whole state says, oh, yeah,  
8 Dee knows what she's doing, so now they're calling me even  
9 more. So it's built from the first day until today, it has  
10 built like a volcano.

11 Q. Okay. So, but couldn't you just say, sorry, I got my own  
12 work to do; I don't have time to do this?

13 A. I can't do that. I mean, I care too much about the  
14 customers, and our customers, the ultimate customer is not, in  
15 my book, is not the only customer; our employees are also our  
16 customers. When somebody calls our office asking for help, I  
17 know that there's somebody on the other line of them needing  
18 help, needing something done, and most of those programs are  
19 very time sensitive, especially the multi-family.

20 As time sensitive as the budgets -- we have to have the  
21 budgets approved before they can change that budget, and all  
22 that has to be done -- there's a time sequence, you know. It  
23 has to be in by October 1st, then we have to review it by  
24 November 1st, and post it on November 1st, because it has to be  
25 out there 60 days before it can take effect on January 1st.

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1 Well, if you don't have all those things done in time and  
2 returned to them, then it can cause some pretty serious  
3 problems because then you have -- one issue is if they're over  
4 30 days and the budget is no increase on it or is not over \$25,  
5 then the computer will automatically do it without you. And  
6 that can be a real issue if there's some problems with that  
7 property.

8 So we -- I try to keep on top of that, and I know that the  
9 other employees in the state -- I guess I take it for granted  
10 that the other employees in the state care about their  
11 customers, whether it be a tenant, a management company, a  
12 borrower, a 502 applicant. Everybody's got a customer on the  
13 other end that needs that done.

14 Q. So you're familiar with other -- you know other people in  
15 the state, right?

16 A. I know a lot of other people, yeah. I've been 23 years in  
17 the Agency.

18 Q. Okay. Now, surely if a GS-12 has been doing nothing but  
19 single family housing and they suddenly have been given multi-  
20 family housing program to do and nothing else, the Agency's  
21 provided them training. I mean, do you have --

22 A. No, we've had no training, no extra training since all  
23 this happened. As a matter of fact, even the single family  
24 training has been kept to the team. And I really have a  
25 problem with that, because if there's changes and things going

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1 on, we need to know that, too. We're still doing 504s, we're  
2 still doing 502 repairs, and we're still doing servicing. We  
3 need to know what's going on.

4 And when I have outreach to do -- I've been asked to do  
5 presentations in communities where they have flooded out. And  
6 they have all these applicants that are economically  
7 challenged; you know, they are very poor. They don't have  
8 computers. They don't have email. You know, they don't have  
9 any of that stuff, and they want to know what do I have to do  
10 and what can I expect. I have to be able to tell them. I have  
11 to be able to go out there and say this is what you have to do,  
12 this is what they're going to ask for.

13 Before when it was in the field office, I knew what the  
14 process was going to be and what time it was going to take and  
15 how they were going to be treated, because I was going to be  
16 the one treating them. Now I get calls, well, I called up  
17 there and they don't have my application yet and I sent it  
18 three weeks ago, or I sent my application in with a check and  
19 they've cashed the check, but I haven't heard from them. I  
20 have a problem with that. That is against the law, I think. I  
21 mean, you can't take their money and not do a curtailment for a  
22 residential. You have to send appeal rights.

23 I mean, all these things aren't happening, but I still  
24 have to go do a presentation and tell people that, hey, yeah,  
25 this is going to work for you and this is how it's going to

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1 work. But I'm not even allowed to do that now. I was told by  
2 my area director -- I had several times asked the program  
3 director and other employees on the team for help, examples,  
4 and maybe, you know, some little tips on what they could do to  
5 make it easier for the applicant. I don't know what they are  
6 anymore. So I was asking for that, and I got nothing. I got  
7 one sheet they sent out to the contractors for new building  
8 that really was something like, okay, the contractors are going  
9 to send in all this stuff to them; it's not even dealing with  
10 the applicant. What happened to the applicant? Why aren't we  
11 doing our mission anymore? I don't want to go into that,  
12 but --

13 Q. Okay.

14 A. I can get really wound up about that.

15 Q. So you're not doing the 502 program, the 502 direct or  
16 guaranteed loan program anymore because it's centralized, and  
17 that should free up some of your time, but you're saying that  
18 because you have to answer so many questions?

19 A. I have to train my assistant to other things. I have --  
20 I'm in essence training half the state to do multi-family, you  
21 know. They don't know.

22 Q. How many GS-12s are there?

23 A. I don't know. There's maybe a handful. I know when they  
24 did the team, they only -- they weren't taking 12s because they  
25 said they had enough 12s. But how do you have 12s in housing?

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1 I didn't think housing could have 12s. But, anyway, they  
2 weren't taking 12s, so I tried to count up who I knew was just  
3 an 11, and I don't think there was enough in there to fill it.  
4 So I think they got specialists by making them some other way,  
5 but --

6 Q. There's only a handful of specialists or -- how many of  
7 them are as, you know, knowledgeable about the programs as you  
8 are?

9 A. I only know of a handful that are knowledgeable about all  
10 of them. You know, I took the business training for the B&Is  
11 several years back when we were doing it in the field. I have  
12 taken all the training I could get on any program over 23  
13 years. I know there's one -- the one 12 that has asked me for  
14 help, all she did was water and wastewater. So she had no idea  
15 about housing, multi-family or direct. She has had --

16 Q. So there are even some 12s out there that don't know the  
17 programs?

18 A. Right, and they -- I'm sorry.

19 Q. Sorry about that. To the extent that you have people --  
20 let me just rephrase it.

21 You mentioned the GS-12, about whether or not they could  
22 be on the centralized team. So when they announced the team,  
23 they weren't allowing the GS-12s to apply, but is that because  
24 of the program? What was the --

25 A. The reason I was given was they had enough 12s already on

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1 the -- in the state office that were going to be automatically  
2 on the team. And I said, how can they be a 12 doing housing  
3 only? And they said, well, because they are doing reviews of  
4 lenders and stuff. I said I don't think that calls for a 12,  
5 because to be a 12 you have to be doing 80 percent complex  
6 stuff and less than 20 percent housing.

7 Q. And what's the complex stuff?

8 A. The community programs, the business industry, the  
9 renewable energy, whether it be outreach, foreclosure, serving,  
10 whatever. I mean, you have to be doing 80 percent of that to  
11 earn a 12.

12 Q. Okay.

13 A. I guess I assumed that --

14 Q. Have you had any adverse -- I mean, like since you're  
15 having to spend a lot of time -- you are spending a lot of  
16 time, you know, dealing with requests from the field for help  
17 in terms of how to do the programs, have you had any kind of  
18 adverse effects with regard to your performance appraisals?

19 A. Well, the area director that I had when the change  
20 occurred knew the situation, and he -- well, he was retiring so  
21 he was not real worried about it. He had our performance plan.  
22 It was like five years old. I mean, he hadn't changed it in  
23 forever. Actually we were told, you know, priority was  
24 housing, priority was the guaranteed loans. You know, we had  
25 to do those first before we did anything else. So he knew

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1 that, so I had successful ratings.

2 Now I have a new area director since like May, and he's  
3 never been an area director. And I have to admit, he is  
4 probably one of the best area directors I've ever had, because  
5 he's been very thorough; he's gone into the national  
6 information wherever and gotten the goals for the whole country  
7 and tried to narrow it down to what to expect from us. And I'm  
8 scared. I'm scared I won't be able to do it, because his goals  
9 are pretty aggressive, you know, which I want to be able to  
10 because I think we have great programs, but I'm afraid it's  
11 going to be hard, very hard to do considering a lot of my time  
12 is being taken up helping everybody else.

13 Q. Have you talked to anybody in management about that?

14 A. Just my area director.

15 Q. And your area director --

16 A. He is working with me as much as he can, but he is also  
17 under the gun to produce. He is being told it cannot continue  
18 the way it has been. You have to produce, and I'm like, okay,  
19 we need the tools.

20 Q. And has he told you, like, not to answer questions from  
21 other specialists that call?

22 A. No, because some of the other specialists and techs are in  
23 his office, the other area office under him.

24 Q. So he's over more than just your office?

25 A. Yes, he's over the Georgetown area office.

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1 Q. And some of the employees that are calling you for help  
2 are the same employees that he has in other offices?

3 A. Yes. As a matter of fact, the technician in that office  
4 is calling us on a regular basis for help, so -- and we don't  
5 care; we want to help. And if we need help from them, I'm sure  
6 they'd give it to us, too. I mean, I feel like the employees  
7 are a team. We all need to work together. I totally -- that's  
8 my moral -- my job, you know. I feel it's very ethical to be a  
9 team.

10 Q. Okay.

11 MS. DYE: I don't have any further questions.

12 JUDGE CENTER: Counsel, how long do you anticipate your  
13 cross taking?

14 MR. MONTGOMERY: No more than five minutes, I should  
15 think.

16 JUDGE CENTER: All right. Let's go ahead and do your  
17 cross then, and then we'll take a break.

18 MR. MONTGOMERY: All right.

19 THE WITNESS: More water.

20 **CROSS-EXAMINATION**

21 Q. BY MR. MONTGOMERY: Ms. Aupperle, my name's John  
22 Montgomery. I represent the Agency in this case. Good  
23 morning.

24 A. How do you do.

25 Q. Ms. Aupperle, I'm having a little trouble understanding



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- 1 just what you think the problem is here with the new program.  
2 We've heard you say you're a GS-12, correct?  
3 A. Um-hum.  
4 Q. Ever since the reorganization has come in, you haven't  
5 lost any status, have you?  
6 A. I haven't lost any what?  
7 Q. You haven't lost any status. You haven't been -- you  
8 haven't lost a grade or a step, anything like that?  
9 A. Not yet, but if I cannot --  
10 Q. Yes or no to my question, please, Ms. Aupperle. Have you  
11 or have you not?  
12 A. Not yet.  
13 Q. Yes or no?  
14 A. No.  
15 Q. You haven't lost any money, have you?  
16 A. I have lost overtime. Overtime was offered to the direct  
17 team and not us.  
18 Q. All right. Even though you didn't testify about this on  
19 direct, I'll give you a chance. Are you saying that you used  
20 to get overtime that you don't anymore?  
21 A. No. I'm saying that since the organization, the  
22 reorganization of the centralization, overtime was offered to  
23 the direct team and not to the field.  
24 Q. You're talking about overtime other people get, not you;  
25 right?

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1 A. For doing the single family housing processing, yes.

2 Q. Who are these other people?

3 A. They are on the direct team.

4 Q. Where are they?

5 A. All over the state. They're on the team. There's a team  
6 under the housing director that is all over the state. They  
7 have taken the field, FTEs out of the field under her, and they  
8 report directly to her.

9 Q. All right. Ms. Aupperle, do you think that if one person  
10 in the state gets a chance to work overtime that every single  
11 other employee in the state has to get it as well? Is that  
12 what you think?

13 A. My area director told us to be ready to help because we  
14 were told all hands on deck. We cut appointments, reviews, and  
15 whatever we had going, to be available to do all hands on deck.  
16 We were not called upon to do anything but outreach.

17 Q. I don't hear you answering my question.

18 A. Well, I don't -- I'm trying very hard to answer your  
19 question.

20 Q. All right. You do understand that the reason you're  
21 testifying here is to make the point that bad things have  
22 happened because of this reorganization program, right?

23 A. Yes.

24 Q. Well, are you telling me that back in the good old days  
25 you used to get overtime and now you don't?

## Aupperle

- 1 A. I got comp time when I had to work late, yes.
- 2 Q. But that's not money, is it?
- 3 A. Well, it kind of turns into money when you can take off.
- 4 Q. All right.
- 5 A. My big impact is my time is being spent on everything but
- 6 what is called for me to do on my job, and if I don't do my
- 7 job, I will be impacted in my rating because I will lose my 12.
- 8 Q. Well, we'll get to that, Ms. Aupperle. You have said that
- 9 you're having to work on things you didn't work on before,
- 10 different programs, right?
- 11 A. No, I've always worked on all programs.
- 12 Q. I see.
- 13 A. I'm an area specialist.
- 14 Q. But your workload has changed since the reorganization has
- 15 happened, right?
- 16 A. No, not really, because I didn't do the processing, my
- 17 assistant did.
- 18 Q. Well, changed within your office, then?
- 19 A. She -- I came to her for reviews. Pardon me?
- 20 Q. Well, if things haven't changed, then what is there to
- 21 complain about?
- 22 A. The complaint is that more -- I am spending more time on
- 23 that program because I'm helping other people, either --
- 24 whether it be applicants, lenders, realtors, or other people
- 25 that now have to do other duties that they don't know.

Aupperle

- 1 Q. Why is that --
- 2 A. So it's impacting my work.
- 3 Q. Why is that a bad thing?
- 4 A. Why is what a bad thing? Which part?
- 5 Q. That your workload has changed.
- 6 A. I don't understand what you're asking me.
- 7 Q. Well, I'm trying to get you to explain it. I understand
- 8 that your job isn't exactly the same now that it was before,
- 9 before the reorganization happened, but what I'm trying to
- 10 understand is what's wrong with that?
- 11 A. You didn't ask me that, what was wrong with that.
- 12 Q. Well, I'm asking you it now, if I didn't before.
- 13 A. What's wrong with it has changed?
- 14 Q. Yes.
- 15 A. It has -- the change has made it harder for me to do the
- 16 job I'm being paid to do. I thought I already said that.
- 17 Q. You don't seriously mean to say that part of what you do
- 18 during your working day is what you're paid to do and other
- 19 parts of it are not what you're paid to do. You don't say
- 20 that, do you?
- 21 A. You're -- I don't understand what you -- you're just
- 22 double-talking.
- 23 Q. All of it is what you're paid to do; isn't that true,
- 24 Ms. Aupperle?
- 25 A. I am paid to do all of it, yes, sir.

Aupperle

1 Q. Well --

2 A. Although it's supposed to be 80 percent the complex  
3 programs, 20 percent the housing.

4 Q. Who says it's supposed to be that?

5 A. I believe it's in the regulations that way to be an 11 or  
6 a 12, or a 9 even. Nines and 11s do only housing; 12s are  
7 supposed to do the group, what we call the group -- we have the  
8 slang, a group program, which would be a community program, you  
9 know, water/wastewater or -- you know, water -- sorry -- like  
10 if we had an application for a hospital or a nursing home or  
11 any of those things.

12 Q. Fair enough. I believe I see your point now. Is your  
13 complaint that more of your work is on the less complex stuff  
14 than it was before and --

15 A. More of my --

16 Q. -- you don't, as often, get to work on those more complex  
17 programs; is that it?

18 A. More of my time is being spent helping other people do  
19 their job because they have been dumped the job of doing that  
20 stuff, because before all they did was housing and now they're  
21 -- or all they did was -- like one lady, all she did was water  
22 and wastewater, and now she has to do multi-family, which she  
23 hasn't a clue.

24 Q. All right, Ms. Aupperle. I understand that people are  
25 doing things that --

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1 A. And without training.

2 Q. -- that they didn't do before, but all of it is something  
3 that somebody has to do, right?

4 A. That's exactly right, and that's why I don't tell them no.

5 And the training that has been done for the team on the  
6 housing team has not been shared with the field and we still do  
7 -- have to do housing in the field as well, and we still have  
8 to service it, and I find that a problem. That's a very big  
9 impact when I can't go out into the public and tell them this  
10 is how we're going to do this, this is how you're going to be  
11 treated, and have it happen that way. When I can't do that,  
12 that impacts my credibility, and my credibility is everything  
13 on my job.

14 If I can't go to a community and be credible to a judge or  
15 a county commissioner or even a realtor that this is going to  
16 happen at this time -- I mean, we never had exact dates, but we  
17 could give them, okay, we have 30 days to review an application  
18 and get that applicant an answer. If you want this house -- if  
19 you're selling this house to this applicant, yes, I will come  
20 out within two or three days and look at it so that you can get  
21 a contract going with that applicant. I can't work with that  
22 realtor anymore like that. I can't do any of those things, and  
23 the applicants have no clue. They don't know how to do that.

24 Q. All right. Now, about your performance appraisal, you  
25 haven't received any appraisals that are lower than what you

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1 had before now, did you?

2 A. A couple of years ago we were totally doing guaranteed  
3 loans as a priority. We weren't allowed to do anything but --  
4 I would like to finish this.

5 Q. I wouldn't want you to answer --

6 A. We weren't allowed to do anything but, and we were given  
7 an unsatisfactory rating but they withdrew it because they  
8 didn't give us opportunity to improve and it was all due to the  
9 housing thing. But --

10 Q. I'm talking about you, Ms. -- personally, Ms. Aupperle.

11 A. I've never been given a bad rating, no. Not final ones.

12 Q. Now, Ms. Aupperle, you understand that this reorganization  
13 plan doesn't only affect you and your little office, right?

14 A. I very much understand that. I am a team player, and I  
15 want the whole state to be successful.

16 Q. It's not only you; it's several hundred other employees  
17 around the state, right?

18 A. Yes, sir.

19 Q. And many thousands of ordinary citizens who participate in  
20 Rural Development programs in this state, right?

21 A. Exactly. That's my point. They're not -- they're getting  
22 worse service.

23 Q. That's what I was just going to ask you. Do you believe  
24 that Rural Development delivered its programs better before  
25 this reorganization happened than it does now; yes or no?

Aupperle

1 A. No. We did more loans before in single family housing  
2 only, alone. We did 500 and some the year before they took it  
3 over. They only did 100 and some last year.

4 Q. All right. So that -- well, I'm talking about all the  
5 different programs in all the state. Do you believe that Rural  
6 Development did a better job before than it does now since the  
7 reorganization has come in?

8 A. No.

9 Q. Do you believe that it's the same now that --

10 A. I believe it's worse.

11 Q. You believe the reorganization has made things worse?

12 A. Yes.

13 Q. All right.

14 A. We didn't have enough employees before and we don't have  
15 enough employees, even worse, now.

16 Q. Now, Ms. Aupperle, and, again, we're not just talking  
17 about your little office, we're talking about all programs all  
18 around the state.

19 A. I help all the offices and even the --

20 JUDGE CENTER: Counsel, you haven't asked the question  
21 yet.

22 THE WITNESS: I'm sorry. I don't mean to be  
23 argumentative. I help everybody with every program.

24 Q. BY MR. MONTGOMERY: Ms. Aupperle, I take it you're a  
25 member of the Union, as well; is that correct?



Aupperle

1 A. I am a member of the Union and I'm also a member of TACS.

2 Q. A member of what?

3 A. TACS, Texas Association of Credit Specialists. They help  
4 with processes and stuff for other employees -- for the  
5 management and --

6 Q. So you're a member of the Union here. How long have you  
7 been one?

8 A. Probably four, five years now.

9 Q. Do you have or have you ever had any position as a union  
10 official?

11 A. I represent them on the labor-management forum. On what  
12 was supposed to be pre-decisional involvement.

13 Q. Are you aware that there are a lot of people around the  
14 state who think that the reorganizational plan has been a good  
15 thing?

16 A. I think the people on the housing team believe it's been a  
17 good thing because they've gotten the training, they've gotten  
18 the overtime and they've gotten promotions. They've gotten --  
19 they've got it going. They can only -- they only have to do  
20 one thing. So it's a lot easier for those people to do that.  
21 But the people out in the field are all hurting. I've talked  
22 to a lot of them.

23 MR. MONTGOMERY: I have no more questions, Judge.

24 JUDGE CENTER: All right.

25 JUDGE CENTER: Ma'am, I have a few questions for you to

## Aupperle

1    try to get some --

2           THE WITNESS: I need water.

3           JUDGE CENTER: -- clarity. Actually, I can give you

4    another water if you'd like.

5           THE WITNESS: Oh, thank you.

6           JUDGE CENTER: But you're not going to be here that much

7    longer.

8           THE WITNESS: I know, but I dehydrate fast.

9           JUDGE CENTER: How many programs are you responsible for

10   in your field office?

11          THE WITNESS: We're responsible for all programs that come

12   in. Even like the housing preservation grant program, they

13   submit an application to us; we would review it, score it, and

14   send it out.

15          JUDGE CENTER: What's the number? How many programs? I

16   believe you used 40.

17          THE WITNESS: Forty-some programs, yes.

18          JUDGE CENTER: Is that correct?

19          THE WITNESS: Yes.

20          JUDGE CENTER: All right. The changes that occurred in

21   August of 2014 --

22          THE WITNESS: Yes.

23          JUDGE CENTER: -- took away 502 guaranteed single and 502

24   direct single family homes; is that correct?

25          THE WITNESS: That were not repairs, yes.

## Aupperle

1 JUDGE CENTER: That's the only -- of the 40-something  
2 programs, those are the only two that were removed?

3 THE WITNESS: Yes.

4 JUDGE CENTER: And of those two, all of it was not  
5 removed. You're still responsible for some of the 502 program?

6 THE WITNESS: Yes. We're responsible for outreach,  
7 responsible for servicing, foreclosing, and answering  
8 questions, helping them with applications.

9 JUDGE CENTER: What part of the 502 program was taken  
10 away?

11 THE WITNESS: Just, as far as I can tell, just the putting  
12 it in computer and processing it, and --

13 JUDGE CENTER: When you say it, you mean the application?

14 THE WITNESS: Yes. I'm sorry.

15 JUDGE CENTER: That's okay. So it was the application  
16 process that was taken away from the field office and moved to  
17 a central unit?

18 THE WITNESS: Yes, that's the part that was taken away.

19 JUDGE CENTER: And if I'm understanding this right, then,  
20 basically once somebody applies and actually gets the loan, it  
21 becomes your baby again? You're the one who's got to manage  
22 it?

23 THE WITNESS: Right.

24 JUDGE CENTER: Is that a fair assessment of --

25 THE WITNESS: Pretty much.

## Aupperle

1 JUDGE CENTER: -- the process? All right.

2 What percentage of your work load did the 502 programs  
3 constitute when you had everything in your office?

4 THE WITNESS: I was only doing reviewing mostly; the  
5 assistant was doing the application processing part, and -- oh,  
6 maybe 10 percent, 15 percent.

7 JUDGE CENTER: Of your job?

8 THE WITNESS: Of my job.

9 JUDGE CENTER: What about of your assistant's job?

10 THE WITNESS: Probably like 100 percent.

11 JUDGE CENTER: So she was basically dedicated to taking  
12 applications and helping people process their application?

13 THE WITNESS: That was her main function, plus she was  
14 also -- she's the clerk. She was doing all the administrative  
15 type things, which is -- that is her job, the -- and the  
16 processing she did, and then I would review it and close it,  
17 inspections, and I would do all that part.

18 JUDGE CENTER: All right. So basically what you just  
19 testified to, that it was 10 to 15 percent, would be consistent  
20 with your testimony that the 502 housing is considered  
21 non-complex and you're only supposed to do 20 percent --

22 THE WITNESS: Twenty percent.

23 JUDGE CENTER: -- non-complex.

24 THE WITNESS: Yes.

25 JUDGE CENTER: Is that correct?

## Aupperle

1 THE WITNESS: Yes.

2 JUDGE CENTER: Prior to having the application process  
3 taken away, were you given overtime to perform that type of  
4 work?

5 THE WITNESS: Comp time. We weren't allowed -- nobody got  
6 overtime.

7 JUDGE CENTER: I'm going to ask about comp time, but  
8 I'm --

9 THE WITNESS: I'm sorry.

10 JUDGE CENTER: Were you given overtime?

11 THE WITNESS: No.

12 JUDGE CENTER: All right. But you were, whenever you  
13 worked extra hours, given comp time?

14 THE WITNESS: Yes.

15 JUDGE CENTER: And that was extra hours on the 502  
16 program?

17 THE WITNESS: On -- yes, sometimes it was on that.

18 JUDGE CENTER: Are you still being given comp time to work  
19 on other things?

20 THE WITNESS: I have been given comp time to attend  
21 meetings, outreach meetings and such as that, which I was  
22 getting before, too.

23 JUDGE CENTER: All right. But you have been given some?

24 THE WITNESS: Comp time, yes.

25 JUDGE CENTER: With respect to the additional assistance

## Aupperle

1   you're providing to other co-workers regarding programs that --  
2   and if I'm understanding it right, these are co-workers who  
3   used to do housing?

4       THE WITNESS:   Or other programs.

5       JUDGE CENTER:   Or other programs.

6       THE WITNESS:   There's 12s that never did --

7       JUDGE CENTER:   And now they're not doing the housing  
8   applications, but they're still doing the other parts of the  
9   housing just like you are; is that correct?

10       THE WITNESS:   Not all of them, no.  There's a couple that  
11   were doing more complex programs that are now having to do  
12   multi-family housing.

13       JUDGE CENTER:   Yeah, they've been given additional complex  
14   programs?

15       THE WITNESS:   Actually multi-family housing, a lot of it  
16   is not complex.

17       JUDGE CENTER:   All right.

18       THE WITNESS:   It's the review part that's the complex.

19       JUDGE CENTER:   But they're being given new duties and  
20   they're calling you to ask you how to do them?

21       THE WITNESS:   Yes.

22       JUDGE CENTER:   Were you getting calls like that before  
23   this?

24       THE WITNESS:   Once in a great while, yeah.

25       JUDGE CENTER:   So it's actually --

Aupperle

1 THE WITNESS: People know me.

2 JUDGE CENTER: You've always been recognized as a  
3 specialist who knows what it's all about.

4 THE WITNESS: Yes.

5 JUDGE CENTER: But now that so many of them are now moving  
6 into these programs they haven't worked with before --

7 THE WITNESS: Right.

8 JUDGE CENTER: -- they're calling the specialist they know  
9 about?

10 THE WITNESS: Yes.

11 JUDGE CENTER: Is that a fair statement -- understanding?

12 THE WITNESS: Yes, and they're even being referred to me.

13 JUDGE CENTER: Who's referring them to you?

14 THE WITNESS: The program director for housing.

15 JUDGE CENTER: Counsel, any questions in response to  
16 either cross or my questions?

17 MS. DYE: Just one.

18 **REDIRECT EXAMINATION**

19 Q. BY MS. DYE: Do you have any element in your performance  
20 standards for training other people?

21 A. No, not really. Not specifically.

22 Q. Do you have any elements in there regarding like getting  
23 along with others in the, you know, workplace?

24 A. Customer service?

25 Q. Well, customer is referring to outside. I'm talking about

Aupperle

1 the people within your office and within the state office,  
2 within the, you know, RD.

3 A. Customer service is everyone, including the people that  
4 work in the office, in the area office, in the state office.  
5 Customer service -- your customers are anybody you help,  
6 anybody you help, whether it be a tenant, an applicant, or your  
7 co-worker that's sitting across the desk from me.

8 Q. So you do have something that deals with communications or  
9 helping other people in the office?

10 A. Yes.

11 MS. DYE: That's it.

12 JUDGE CENTER: Any recross in response to my questioning  
13 or the redirect?

14 MR. MONTGOMERY: Nothing from the Agency.

15 JUDGE CENTER: All right. Subject to recall?

16 MS. DYE: No.

17 JUDGE CENTER: All right. Thank you very much for your  
18 testimony here today. You're free to leave. Please don't  
19 discuss your testimony with anyone else, but you don't have to  
20 remain around --

21 THE WITNESS: Okay.

22 JUDGE CENTER: -- and I guess you're getting on the road  
23 back to someplace else, I hear.

24 THE WITNESS: Yeah, thank you.

25 JUDGE CENTER: All right. Have a safe trip.



Aupperle

1 THE WITNESS: Thank you.

2 JUDGE CENTER: Nice to meet you.

3 THE WITNESS: Nice to meet you to.

4 **(Witness excused.)**

5 JUDGE CENTER: All right. It looks like it's now 10 till  
6 11:00; is that right? No, 5 till 10:00, maybe.

7 MR. MONTGOMERY: Ten to 11:00.

8 JUDGE CENTER: Ten until 11:00. All right. Let's come  
9 back at 11:00.

10 MR. MONTGOMERY: Very good.

11 **(Off the record at 10:50 a.m. to 11:01 a.m.)**

12 **JUDGE CENTER: Back on the record.**

13 MS. DYE: General Counsel is calling Todd English.

14 JUDGE CENTER: Okay. Raise your right hand.

15 (Whereupon,

16 **TODD A. ENGLISH**

17 was called as a witness by and on behalf of the General Counsel  
18 and, after having been first duly sworn, was examined and  
19 testified as follows:)

20 JUDGE CENTER: Please state your name.

21 THE WITNESS: Todd A. English.

22 JUDGE CENTER: Please spell that for the court reporter.

23 THE WITNESS: T-o-d-d, A, E-n-g-l-i-s-h.

24 Did you say left lapel?

25 COURT REPORTER: It doesn't matter. You can --

English

1 JUDGE CENTER: Counsel, proceed.

2 **DIRECT EXAMINATION**

3 Q. BY MS. DYE: Mr. English, do you work for the Rural  
4 Development?

5 A. Yes.

6 Q. And what's your position?

7 A. I'm a housing technician -- or actually I'm a programs  
8 technician at this time.

9 Q. Okay. What's your grade?

10 A. GS-7.

11 Q. How long have you worked for RD?

12 A. About six years.

13 Q. Are you a member of AFGE 571?

14 A. Yes, ma'am.

15 Q. And do you represent the Union?

16 A. Yes, ma'am.

17 Q. And what's your position?

18 A. I'm the union steward.

19 Q. What do you currently -- what program do you currently  
20 work in?

21 A. Community programs.

22 Q. How long have you been -- oh, okay. Were you part of the  
23 centralization of the 502 and -- 502 direct and guaranteed loan  
24 programs?

25 A. Yes, ma'am.

## English

- 1 Q. And what did you do prior to the centralization?
- 2 A. In housing here at the state office or prior to coming to  
3 the state office?
- 4 Q. Well, so you were somewhere else before the state office?
- 5 A. Yes. I started my career with -- in the McKinney field  
6 office.
- 7 Q. Um-hum. And what did you do there?
- 8 A. I worked the 502 direct program as an area assistant.
- 9 Q. And when did you come to the state office?
- 10 A. That was about July or August of 2011.
- 11 Q. And what were you doing at that time?
- 12 A. I was transferred down here for the centralization of the  
13 guaranteed program.
- 14 Q. So was the guaranteed program centralized at that time?
- 15 A. It was supposed to have been, but it wasn't fully  
16 implemented.
- 17 Q. What do you mean by that?
- 18 A. Meaning that they tried to centralize the documents and as  
19 far as the loans coming here as much as possible, but the field  
20 offices were still assisting with processing the loans because  
21 the state office couldn't handle the caseload.
- 22 Q. You're talking about like software?
- 23 A. No, at that time they hadn't upgraded the software. The  
24 work was all centralized. It was just -- they shipped all the  
25 files here, and as they needed, they would ship them back to

## English

1 the field offices to be processed, to assist with processing  
2 the loans.

3 Q. Okay. So by July of 2014, what was the -- was the  
4 guaranteed program still centralized?

5 A. July '14? No, I believe it was in September of '14 that  
6 it was centralized.

7 Q. So how wasn't it centralized prior to that?

8 A. It was still the same process. Now, the programs  
9 themselves had been centralized to where everybody in the  
10 fields could access the programs online. So we were going  
11 paperless. We weren't -- you didn't have paper files. But the  
12 files were still -- you know, the other area offices still  
13 assisted with processing the guaranteed program loans.

14 Q. All of the offices?

15 A. To my knowledge, yes.

16 Q. And was this -- did they start out in the area offices or  
17 did they start out here and then go to the area offices?

18 A. There was a program -- they started off here, and then the  
19 area office would grab them based on their date of intake and  
20 process them from there.

21 Q. Well, if it was centralized, why was the area office doing  
22 it?

23 A. There wasn't enough personnel to handle the caseload.

24 Q. Had you lost people?

25 A. We did lose some people.

## English

- 1 Q. Okay. So before the change, you worked on the guaranteed  
2 program here in the state office?
- 3 A. Correct.
- 4 Q. So you were one of those employees that did the guaranteed  
5 program?
- 6 A. Yes, ma'am.
- 7 Q. After the change, what did you work on?
- 8 A. I still worked the guaranteed program.
- 9 Q. Okay.
- 10 A. Processing files.
- 11 Q. So tell me what did you do in that process?
- 12 A. You would -- as a technician, you would intake the file.  
13 You entered into two systems, made sure that all the documents  
14 are with the file. Once it's entered, then as a tech, I would  
15 go ahead and grab it or -- as intake, you enter it, and then  
16 it's -- you know, and techs in the field would grab it, as  
17 needed, to work it based on the date of intake. When I wasn't  
18 doing intake, I would process the files for completeness and  
19 accuracy, and if everything looked good and once I filled out  
20 everything online and entered it into the systems, I would put  
21 in line for a specialist to grab.
- 22 Q. Okay. This is after the centralization happened? Because  
23 you mentioned the area office still being involved.
- 24 A. Yes.
- 25 Q. And how was the area office involved after centralization?

## English

1 A. Well, after the centralization, the area offices weren't  
2 involved. That's just where the people themselves are located.

3 There's a -- there's kind of a technicality as to the  
4 centralization. After the centralization, the people who were  
5 still working in the area offices, physically in the area  
6 offices, were attached to the state office under the management  
7 of the housing program director. But they were --

8 Q. Okay. So --

9 A. But they were --

10 Q. -- there is a centralized team, some of whom were here in  
11 the state office and others were at different area offices?

12 A. Exactly.

13 Q. And they were on this direct and guaranteed team?

14 A. Yes, ma'am.

15 Q. Were they still doing the same work that they -- were they  
16 still doing work in the area offices themselves in terms of the  
17 work that the area office does?

18 A. No. They were only working on the guaranteed program.

19 Q. Okay. So you basically processed loans until they got to  
20 the point where they had to be reviewed and approved by, like,  
21 a loan specialist?

22 A. Exactly.

23 Q. Okay. So you were doing guaranteed before?

24 A. Yes, ma'am.

25 Q. And it was being done in the different offices as well. I

## English

1 mean, they were sending it out to the office to do because they  
2 didn't have enough people. They still -- they don't have any  
3 more people than they did before; is that correct?

4 A. They have more people assigned now specifically to the  
5 guaranteed program.

6 Q. As part of the team?

7 A. Right. Exactly.

8 Q. Okay. So how did this change affect you? I mean, what is  
9 the difference between before the change and subsequent to the  
10 change?

11 A. Prior to the centralization, the area offices would handle  
12 the loans pretty much themselves. The files for their area,  
13 they would handle themselves. The phone calls, they would  
14 process the checks there. They would do what needed to be  
15 done.

16 After it was centralized, everything was sent here. The  
17 phone calls came here; the checks were sent here, so the people  
18 in the area offices didn't have to deal with those. And, in  
19 fact, they still don't have to deal with those kinds of  
20 collateral duties to this day. Only the techs that are in the  
21 state office have to do the collateral duties, even after the  
22 centralization.

23 Q. You mean people who are in area offices that are techs  
24 that are on the team are not doing these collateral duties?

25 A. Correct.

## English

- 1 Q. Are they doing collateral duties for the area office?
- 2 A. No.
- 3 Q. Okay. Well, describe some of these collateral duties.
- 4 A. Well, processing the checks, taking care of all the phone  
5 calls, doing the -- there's emails that come here that don't go  
6 out to the field; doing loss claim appraisals, and answering  
7 other inquiries from -- because everything is now centralized,  
8 all of the lenders from nationwide call the state office  
9 instead of the area office where the loans used to be handled.
- 10 Q. So the loans -- if you were in Area 2 and there was a loan  
11 that came in, it would be from like around that area, and you'd  
12 deal with the people that were in -- and if it was in Area 7,  
13 they'd deal with it because that's where the loan exists?
- 14 A. Correct.
- 15 Q. And now it doesn't matter where they are in the whole  
16 State of Texas, they all come to the central office?
- 17 A. That's correct.
- 18 Q. Okay. So before, if somebody came into the office, if  
19 somebody applied, telephone calls, things like that, it would  
20 be to the area office?
- 21 A. Yes.
- 22 Q. And people in the area office would respond?
- 23 A. Yes.
- 24 Q. Now since there's a centralized team, they don't go to  
25 each of the area offices, they come to the central office?



## English

- 1 A. Everything comes here.
- 2 Q. The state office?
- 3 A. Yes, ma'am.
- 4 Q. Okay. So you said you're answering phones?
- 5 A. Correct.
- 6 Q. How does that change your -- how does that impact you? I
- 7 mean, what kind of an impact does having to answer the phones?
- 8 A. We're told to process so many loans per day, and it's kind
- 9 of hard to do that when you've got all these other collateral
- 10 duties, when you're still held accountable -- your performance
- 11 plan and your appraisal is based on how well you do your
- 12 primary functions.
- 13 Q. Well, have you had any -- I mean, had your supervisor said
- 14 anything to you about, you know, not getting enough done?
- 15 A. Yes. She no sooner sent out an email saying that Donald
- 16 and I need to answer more phone calls, and as we did, she then
- 17 sent me another email as to why I wasn't producing any loans.
- 18 Q. How many phone calls did you handle before the change?
- 19 A. Maybe six or eight a day.
- 20 Q. How much time do they generally take, generally? Just an
- 21 average.
- 22 A. Generally maybe -- typically you can handle them in about
- 23 three to four minutes.
- 24 Q. Okay. Once the change occurred, how many phone calls did
- 25 you have to answer a day?

## English

1 A. Well, 25 to 30 easily.

2 Q. What -- okay, besides answering the telephone, what other  
3 kind of collateral duties have you been doing?

4 A. Processing checks.

5 Q. What is that?

6 A. Up until the guarantee fees were processed by the lenders,  
7 they were all coming here. And sometimes we would get anywhere  
8 from 50 to 100 a day, each and every day, and this is  
9 literally, you know, tens of thousands of dollars. We have to  
10 take the time to process those and look them up in the system  
11 and fill out the forms, and we would do our part and then  
12 submit it to the specialist. After the centralization and  
13 after the guarantee fees were processed by the lenders online,  
14 then she had us doing the checks for the direct team and the  
15 multi-family housing team, which I'm not even attached to.

16 Q. So before you had to do checks, but it was spread out  
17 among all the regions?

18 A. Exactly.

19 Q. Wherever that loan is or whatever, it would go into that  
20 office and they'd do all the things that need to be done?

21 A. Yes.

22 Q. It was centralized and you had to do all those loans?

23 A. Correct.

24 Q. And then at some point the Agency decided they were going  
25 to have the lenders do something for the checks?

## English

1 A. Yes, ma'am. There was a national mandate that the lenders  
2 start processing guarantee fees and submitting them online.

3 Q. Okay. So, yay, you don't have to do that anymore.

4 A. Exactly.

5 Q. But --

6 A. So now -- then all of a sudden, she started having us do  
7 the checks for the direct team and the multi-family housing  
8 team. Now, there's not nearly as many of those, but it still  
9 subtracts from what we have to do on a day-to-day basis.

10 Q. And the multi-family housing is outside in the -- it's in  
11 the region -- I mean, in the area offices?

12 A. I don't know if multi-family's been centralized or not. I  
13 do know that they were typically handled in the area offices as  
14 well.

15 Q. And so you're handling checks that have come in from the  
16 area office as well as checks that have come into the state  
17 office?

18 A. Yes.

19 Q. Okay. You said something about a loss claim appraisal?

20 A. Right.

21 Q. What's that?

22 A. When a loan goes into default, they try to liquidate as  
23 best -- as quickly as possible. If it doesn't get liquidated,  
24 then we -- CSC sends an email down here, and they distribute it  
25 to us to order an appraisal from the appraiser to try to

## English

1 liquidate the property as quickly as possible.

2 Q. Okay. Is there any other collateral duties that we  
3 haven't mentioned here?

4 A. No, but the loss claim appraisals used to go out to all  
5 the area offices as well. Whoever was the closest area office  
6 where the property was located, they would do it. Now they all  
7 come to the state office and we have to process those.

8 Q. But it's only for the guaranteed loans that you're doing?

9 A. I believe some of them are probably direct as well, but I  
10 don't know for sure. I never know what the loan typically was  
11 -- whether it was a guaranteed or a direct loan.

12 Q. There are two teams, the centralized and the guaranteed  
13 team -- I mean, the direct team and the guaranteed team?

14 A. Yes, ma'am.

15 Q. And you are on the guaranteed team?

16 A. Yes, ma'am.

17 Q. Sometimes you have to do things for the direct?

18 A. Yes, ma'am.

19 Q. Are there -- what about technicians on the direct team?

20 A. As far as processing loss claims?

21 Q. Or the checks.

22 A. They weren't -- oh, actually, I'm sorry, there are no  
23 techs in the state office for the direct team. There's only  
24 one specialist located here for the direct team.

25 Q. Okay. So they have technicians, but they're out in the

## English

1 area offices?

2 A. Correct.

3 Q. So you're the only two technicians here, so you're given  
4 these extra collateral duties, not the specialist?

5 A. Yes, ma'am.

6 Q. Okay. Could you take a look at --

7 MS. DYE: Your Honor, I'm going to give the witness a  
8 document. Do you want to see this?

9 JUDGE CENTER: No, not right now.

10 Q. BY MS. DYE: Would you turn to General Counsel's Exhibit  
11 36, please? Okay. It's several pages, so if you could just  
12 take a look at the first page, which has as its date on the  
13 top, January 26, 2015.

14 A. Yes, ma'am.

15 Q. Do you see that document? Could you read that real quick  
16 and just familiarize yourself with it?

17 A. Read it out loud or just to myself?

18 Q. No, no, just to yourself and then I'll ask you some  
19 questions.

20 A. Okay.

21 Q. Okay. So what is -- can you tell me what this is?

22 A. This is a letter from the program director assigning the  
23 rotation for the collections on a month-to-month basis.

24 Q. And are these the checks that you were talking about  
25 earlier?

## English

- 1 A. Yes, ma'am.
- 2 Q. Okay. So what does this mean?
- 3 A. It means that we're going to start processing the checks
- 4 on a monthly basis. We used to do it on a weekly basis,
- 5 rotating weekly basis, and she decided to go to a monthly
- 6 basis.
- 7 Q. So one person is assigned for one a month --
- 8 A. Exactly.
- 9 Q. -- and then the next person is assigned for a month?
- 10 A. Yes, ma'am.
- 11 Q. And there are two technicians?
- 12 A. Yes, ma'am.
- 13 Q. Okay.
- 14 A. At the time there were, yeah.
- 15 Q. Okay. Are there more technicians now?
- 16 A. I don't know what their setup over there. I'm not in that
- 17 program anymore, so honestly I don't know.
- 18 Q. Okay. Now, are you not in that program permanently or are
- 19 you temporarily in another program right now?
- 20 A. I'm temporarily reassigned due to an EEO complaint.
- 21 Q. Okay. Now, if you look at the sentence that says each
- 22 person is designated for a month. It says you -- if you have
- 23 leave scheduled that month or an NWD -- what's NWD?
- 24 A. Non-work day.
- 25 Q. Okay. And what would that be? What's a non-work day?

## English

- 1 A. We work 9-hour days, and then one 8-hour day, and then  
2 we'll get one day off every other week.
- 3 Q. You have a 5/4/9 compressed scheduled?
- 4 A. Yes, ma'am. Exactly.
- 5 Q. Okay. So when she tells you to please find a partner to  
6 swap the day or time off, what does that mean?
- 7 A. She's wanting us to find relief for ourselves for our  
8 collateral duties when we're not here.
- 9 Q. Okay. So you -- this is you and the other tech?
- 10 A. Yes, ma'am.
- 11 Q. So the person that she's saying to find a partner is to  
12 talk to the other tech?
- 13 A. Yes, ma'am.
- 14 Q. Okay. Could you look to the next page which is  
15 January 30, 2015?
- 16 A. Yes, ma'am.
- 17 Q. Okay. Can you tell me what this is?
- 18 A. This is a memo from the program director assigning the  
19 first month to myself and the specialist, Ana. I do the first  
20 part and she does the second part.
- 21 Q. Okay. So you're always only doing one part of it?
- 22 A. Yes, ma'am.
- 23 Q. She's not actually, like, doing what you're talking about?  
24 She's doing something else?
- 25 A. The second -- there's two, well, parts of the process.

## English

- 1 It's a checks and balance system to make sure that the numbers  
2 are correct and all the checks were entered correctly.
- 3 Q. Okay. So this is the beginning of the thing she just  
4 announced in the last email?
- 5 A. Yes, ma'am.
- 6 Q. Okay. So if you could take a look at the next email.  
7 There's actually two pages. So if you could go to the second  
8 page which is an email that's dated October 17, 2014. Just  
9 take a --
- 10 A. Okay.
- 11 Q. Familiarize yourself with it.
- 12 A. Oh, yes, ma'am.
- 13 Q. Okay. Can you tell me what this is?
- 14 A. This is an email from the program director out to  
15 everybody saying that she's going to have to take away the  
16 non-work days because of a work overload, so we're going to  
17 have to go back to working all day each week for 8-hour days.
- 18 Q. You mean working 5 days, 8 hours a day?
- 19 A. Yes, ma'am.
- 20 Q. So she changed your work schedule?
- 21 A. She did.
- 22 Q. And this was temporary?
- 23 A. It was. It was just for pay period 22 and 23.
- 24 Q. And had you -- has this happened since then?
- 25 A. No, but there was a threat to do so.



## English

1 Q. Okay. Prior to that, prior to the centralization, did you  
2 have your schedule changed?

3 A. No.

4 Q. Okay. If you take a look at the next email, which is also  
5 two pages -- the top of the first page it says February 11,  
6 2015.

7 A. Yes, ma'am.

8 Q. Do you -- same document.

9 A. Yes, ma'am.

10 Q. So go to the second page and look at the September 30,  
11 2014 document. Just read it real quick.

12 A. Okay.

13 Q. Okay. So what is this about?

14 A. This is her reminding everybody that she wants everyone to  
15 post their leave on the shared calendar so that everybody can  
16 see when they're going to be off and -- when whoever's going to  
17 be off.

18 Q. Okay. Now, if you look at the second sentence that says,  
19 "If you are requesting leave," it says, "use the Employee  
20 REMARKS box."

21 A. Right.

22 Q. What's that for?

23 A. To show what you're requesting leave for and who your  
24 relief is. Or, you know, to make sure that you either got  
25 relief for your collateral duties or that there's going to be

## English

1 enough coverage for processing loans.

2 Q. Okay. So if you look at the next sentence, the part that  
3 says, "I want it identified that you are swapping with someone  
4 else if you are supposed to have certain duties."

5 A. Yes.

6 Q. What does she mean by that?

7 A. For the collateral duty. She wanted to make sure that we  
8 have coverage for the collateral duties. But essentially the  
9 only people that it affected were the two techs here in the  
10 state office.

11 Q. So like if you had to be out, you couldn't say that like a  
12 tech in Area 4 was going to do your collateral duty?

13 A. Exactly. No, that's not --

14 Q. It has to be here, and the two techs that are here --

15 A. Exactly.

16 Q. -- are just two?

17 A. Exactly.

18 Q. Okay. Have you -- has any of your leave been denied?

19 A. It has.

20 Q. And this is subsequent to the centralization.

21 A. Yes.

22 Q. Why was it denied?

23 A. Because she said there wasn't coverage for my collateral  
24 duties.

25 Q. Now, had you, you know, followed her directions and put

## English

1 something in the remarks section that said you should, you  
2 know, get somebody to take your --

3 A. No.

4 Q. Okay. Could you take a look at the next email, please,  
5 and it's actually three pages, so --

6 A. Okay.

7 Q. Three pages, but really just go to the second page --

8 A. Okay.

9 Q. -- at the bottom. It's dated February 26, 2015. Can you  
10 tell me what this is?

11 A. This is an email from the program director telling  
12 everybody that -- reminding everybody that she wants everybody  
13 to communicate on the calendar about non-work days and make  
14 sure there's coverage for collateral duties and things to that  
15 effect.

16 Q. Okay. If you look at the last sentence, "I will be open  
17 to your suggestions."

18 A. Right.

19 Q. "...if this continues, I need to look at eliminating NWD's  
20 to keep our program moving as per regulations."

21 A. Yes, ma'am.

22 Q. What is that about?

23 A. That was -- well, that was her threat to eliminate the  
24 non-work days if people didn't start communicating effectively,  
25 and making sure that things were covered and make sure people

## English

- 1 were -- enough people are available.
- 2 Q. Okay. So look at the first page now. The email dated
- 3 February 26, 2015.
- 4 A. Okay.
- 5 Q. That's at the top. So could you just read that real
- 6 quick?
- 7 A. Okay.
- 8 Q. So it says here, you know, "I don't want this to be
- 9 construed as anyone not using leave." So is she --
- 10 A. Correct.
- 11 Q. -- pulling back here on saying that you need to get your
- 12 own coverage?
- 13 A. No. We still need to get our own coverage, she's just
- 14 trying to emphasize the fact the fact that she's trying to
- 15 follow Agency policy by encouraging us to still take our leave.
- 16 Q. Okay. Would you look at the next document? It's also
- 17 three pages. The first one at the bottom of page 2 that goes
- 18 onto page 3, that's what we already looked at in the previous
- 19 document.
- 20 A. Okay.
- 21 Q. So could you start with the email that starts at the
- 22 bottom of page 1 and goes to the, you know, the top of page 2?
- 23 It's dated March 10, 2015.
- 24 A. Okay. Okay.
- 25 Q. Okay. What is this about?

## English

- 1 A. She's reminding me that I'm supposed to go to Donald and  
2 make sure that he's going to cover for me on the day that I had  
3 requested leave, and to make sure that I put that in the  
4 remarks box that there's coverage.
- 5 Q. Okay. And what was this in response to?
- 6 A. To a leave that I had requested.
- 7 Q. Okay. Could you show me -- could you look at the top of  
8 the document, then, on page 1? Is this an email that you sent  
9 to her?
- 10 A. Yes, it is.
- 11 Q. Okay. Could you just briefly look at it?
- 12 A. Okay.
- 13 Q. What does it say? What's this about?
- 14 A. This is -- I reminded her that there was nothing in the  
15 collective bargaining agreement or government regulations or  
16 departmental regulations that stipulate that employees must  
17 find relief or coverage for their -- for the days that they  
18 request off.
- 19 Q. And had she denied -- with respect to this actual email,  
20 these two emails, had she actually denied some leave?
- 21 A. She did.
- 22 Q. Did you ever bring -- you bring this up to your  
23 supervisor, your direct supervisor, but did you ever bring it  
24 up to anybody else, anybody else in management?
- 25 A. Yes, I brought this up to Paco.

## English

- 1 Q. Who's Paco?
- 2 A. The state director.
- 3 Q. And what's his name?
- 4 A. Paco Valentin. I also conveyed this to the -- his title,  
5 I believe, is the EEO Director in Washington, D.C., Adrian  
6 Vasquez. I advised him of what she was doing and that it was a  
7 violation, a direct violation of agency policies.
- 8 Q. And have you filed grievances on those?
- 9 A. I have.
- 10 Q. Okay. So could you look at the next email? It's just a  
11 one-pager. It's dated March 11. Just read this real quick.
- 12 A. Okay.
- 13 Q. Is this about the same annual leave request as the last  
14 email?
- 15 A. Yes, ma'am.
- 16 Q. Okay. So what does this say with regard to that -- with  
17 that request for annual leave?
- 18 A. I requested two days off and essentially she's telling me  
19 here that she's going to deny it. She'll approve the day, the  
20 19th that I requested. I requested the 19th and 20th, but she  
21 was going to deny the 20th because it was on a Friday and it  
22 was supposed to be -- I believe she thought it was Donald's  
23 non-work day.
- 24 Q. And was it Donald's non-work day?
- 25 A. I don't believe it was. I asked him when I came in on

## English

- 1 Monday if he was here, and he said, yeah, I was here Friday.
- 2 Q. But she still denied it?
- 3 A. She denied it.
- 4 Q. Did she deny it?
- 5 A. Yes.
- 6 Q. And if you look at the third paragraph down, only other --
- 7 one other technician is a member of the Guaranteed Team and you
- 8 and Donald need to provide coverage. Is she referring to what
- 9 you testified about in terms of, you know, you have to get
- 10 somebody to cover your duties in order to -- and state it in
- 11 your request for leave in order to take leave?
- 12 A. That's exactly correct.
- 13 Q. And some of the leave that you've been denied, is that
- 14 sick leave or is it all annual leave?
- 15 A. It's sick leave and annual leave.
- 16 Q. So if you take a look at the next page, March 11, 2015,
- 17 can you tell me what this is?
- 18 A. This is the actual T&A printout, where she's denying the
- 19 request, but reiterating what I just stated about she'll -- she
- 20 will approve it if I resubmit it for the 19th only.
- 21 Q. So she actually -- she states and is saying that she's
- 22 denied it because you didn't get coverage?
- 23 A. Exactly.
- 24 Q. So did you just not take the leave? Did you come to work
- 25 that day?

## English

- 1 A. No, I took the leave.
- 2 Q. And the other times that she denied the leave, what did  
3 you do?
- 4 A. I took the leave.
- 5 Q. And was this after you spoke to Paco, Mr. Valentin?
- 6 A. Yes, it was.
- 7 Q. And what happened? I mean, so did he tell her go ahead  
8 and approve it? I mean, what was the result?
- 9 A. I don't know what their conversation consisted of, but I  
10 know that I was charged AWOL.
- 11 Q. How many instances of AWOL?
- 12 A. Three, totaling 22 hours.
- 13 Q. 22 hours of AWOL --
- 14 A. Yes, ma'am.
- 15 Q. -- that you've taken, because you didn't provide your own  
16 -- because she denied the leave?
- 17 A. Exactly.
- 18 Q. And she denied the leave because you hadn't arranged your  
19 own coverage?
- 20 A. Exactly.
- 21 Q. Okay. Could you take a look at the next document? It  
22 says April 9th on the top, but really I want you to look at the  
23 bottom where it says April 4, 2015. Can you tell me what this  
24 is?
- 25 A. It's an email that I sent to Ms. Byrd that has a cut and



## English

1 paste of the same T&A -- or of a different T&A where she denied  
2 36 hours of leave.

3 Q. So -- and did she tell you why she denied it?

4 A. For the same exact reason: There was no coverage in the  
5 office.

6 Q. Did you -- were you in -- were you able to take this  
7 leave?

8 A. I did take the -- actually I don't remember if I actually  
9 took all of this or not. I don't remember.

10 Q. Is any of this the 22 hours or was --

11 A. I'm sure part of it is, yes. I wouldn't have sent it  
12 otherwise.

13 Q. Okay. Have you worked any overtime --

14 MS. DYE: I don't have any further questions.

15 JUDGE CENTER: Cross-examination?

16 **CROSS-EXAMINATION**

17 Q. BY MR. MONTGOMERY: Mr. English, my name is John  
18 Montgomery. I'm out of Washington, D.C. I'm the Agency  
19 representative in this case. Good morning.

20 A. Good morning, sir.

21 Q. I have a few questions for you.

22 A. Yes, sir.

23 Q. We heard you testify about a number of, I guess you could  
24 call them incidents that happened. I suppose it would be fair  
25 to say that you don't like what has gone on since the

## English

1 centralization was put into place as it's affected you; is that  
2 correct?

3 A. Aspects. Yes, sir, that's correct.

4 Q. You told us about certain things that have changed in your  
5 day-to-day job. You're handling more phone calls now, for  
6 example. You said that, right?

7 A. Yes, sir.

8 Q. Do you think it's wrong that you're having to do that now?

9 A. The phone calls have to be answered obviously, sir. I  
10 think the way that it's happened, funneling them from the  
11 entire -- actually the entire nation into one office, I think  
12 is extremely unreasonable, especially when only two people are  
13 assigned to answer the phone.

14 Q. But if you weren't answering those calls, someone else  
15 would; isn't that true?

16 A. Well, sir, if they weren't directed to one of two of us,  
17 prior to the centralization, when they went out to the entire  
18 state, yes, sir, there would be multiple people answering those  
19 phone calls and assisting those individuals.

20 Q. So what we're really talking about here is you disagree  
21 with management about the way the answering of telephone calls  
22 has been arranged, right?

23 A. If you're saying that only two people should handle the  
24 influx of phone calls nationwide, yes, sir, I do disagree with  
25 that.

## English

- 1 Q. Well, that's just another way of saying what I just said.  
2 You think it ought to be done differently, right?
- 3 A. That's a fair assessment. Yes, sir.
- 4 Q. And a bit of what we heard about the end of your testimony  
5 here has to do with the taking of leave, and you being charged  
6 with AWOL, right?
- 7 A. Yes, sir.
- 8 Q. And the person we're talking about here is Theresa  
9 Jordison, is that right?
- 10 A. That's correct. Yes, sir.
- 11 Q. Who's going to be one of the Agency's witnesses in this  
12 case --
- 13 A. Yes, sir.
- 14 Q. -- right? This is, at bottom, a dispute between you and  
15 Ms. Jordison personally; isn't that true?
- 16 A. No, sir. This is strictly professional. There are better  
17 ways to manage things. The things that I was denied for, those  
18 two specialists sitting over -- or techs and specialists that  
19 are in the office, they could all do that job. Everybody could  
20 do that job.
- 21 Q. Let me try this another way, Mr. English.
- 22 A. All right, sir.
- 23 Q. You do understand that the reason we're all here today is  
24 that the Judge is going to have to decide whether the way the  
25 centralization plan was put into effect was legal or not,

## English

1 right? You know that's what this case comes down to?

2 A. It's my impression that it was -- and what management has  
3 discussed with us, is that there was a timeline factor that the  
4 Union didn't respond in time, but the Union did in fact respond  
5 in time.

6 Q. Let's just --

7 A. Concerning the centralization. Yes, sir, I will concede  
8 that point.

9 Q. All right. Do you think the fact that you got crosswise  
10 with your supervisor about whether you were taking the leave  
11 the right way really has anything to do with whether the  
12 implementation of the centralization plan was legal or not?

13 A. I'm sorry, sir, I don't understand that question. Could  
14 you rephrase that?

15 Q. I'll try it another way.

16 A. Okay.

17 Q. You came here today to tell us that Theresa Jordison done  
18 you wrong and she shouldn't have put you on AWOL and other  
19 things like that. Now, I'm not saying that you don't have a  
20 right to dispute all that with her, but isn't that something  
21 that belongs in a private grievance that excludes it to  
22 yourself and not anything to do with the Union?

23 A. I do have an EEO complaint and I do have a lawsuit. I  
24 have hired an attorney. Those are -- there are some personal  
25 issues related, but we're talking about a professional aspect

## English

1 here. The centralization doesn't work. We've proved it  
2 doesn't work. The numbers have gone down. There are a  
3 multitude of facets about this case that aren't being, you  
4 know, looked at. There are numbers being thrown around that  
5 are ambiguous. This has nothing to do with a personal take on  
6 me and Ms. Jordison. I'm handling that on a personal level.  
7 This is a professional aspect, and it's been pointed out to the  
8 Union and to our union members by others not in the Union that  
9 we took the wrong stance on this. All we're doing is enforcing  
10 the law and making sure that management enforces the law.  
11 That's it. Bottom line. This has nothing to do with personal  
12 attitudes.

13 Q. Actually, Mr. English, isn't it true that the programs  
14 that were affected by the centralization have improved their  
15 efficiency since it happened?

16 A. Absolutely not.

17 Q. Isn't it true that the backlog in loans has been way  
18 reduced and that loans that used to take months are done in  
19 days or weeks now? That's true, isn't it? Yes or no,  
20 Mr. English?

21 A. Based on that generic form that you just put out  
22 categorizing all programs, the answer is, no, sir; that is not  
23 a correct statement.

24 Q. Isn't it true that we're doing more loans now for more  
25 money to more people in the State of Texas?

## English

1 A. No, sir, that is not true. It's gone down each year, and  
2 they're the worst this year than they ever have been.

3 Q. Well, Mr. English, I don't have time to argue with you  
4 right now about whether the centralization program is a good  
5 thing or a bad one. We have our own witnesses --

6 A. Okay.

7 Q. -- about that, and your testimony is your testimony. I  
8 have no more questions for you.

9 A. Thank you, sir.

10 JUDGE CENTER: Sir, I have a couple.

11 THE WITNESS: Yes, sir.

12 JUDGE CENTER: Actually, I think I've only got one  
13 question, might be two. If I understood your testimony right,  
14 there are -- and you are a technician at this point?

15 THE WITNESS: Yes, sir.

16 JUDGE CENTER: There were technicians who became part of  
17 the central team who are not located in the state offices.

18 THE WITNESS: That's correct. Yes, sir.

19 JUDGE CENTER: They, even though they were part of the  
20 central team and were dedicated to that particular program --

21 THE WITNESS: Yes, sir.

22 JUDGE CENTER: -- and I believe in your case it was a 502  
23 guaranteed program, right?

24 THE WITNESS: Yes, sir.

25 JUDGE CENTER: Even though they were dedicated to that

## English

1 program, they were out in an area office physically located --

2 THE WITNESS: That's correct.

3 JUDGE CENTER: -- and were not, as a result, required to  
4 do any of the collateral duties?

5 THE WITNESS: Absolutely. That is correct, sir.

6 JUDGE CENTER: Any direct in response to my questioning?

7 MS. DYE: No. No. Thank you, Your Honor.

8 JUDGE CENTER: Thank you. Please put it on the record.  
9 Any cross based upon my questioning?

10 MR. MONTGOMERY: Nothing further from the Agency.

11 JUDGE CENTER: Subject to recall?

12 MS. DYE: No.

13 JUDGE CENTER: Thank you very much for your testimony  
14 today. You're free to leave.

15 THE WITNESS: Thank you, Your Honor.

16 JUDGE CENTER: Please don't discuss your testimony with  
17 anyone else.

18 THE WITNESS: I won't, sir.

19 JUDGE CENTER: Thank you, sir.

20 THE WITNESS: Thank you, sir.

21 **(Witness excused.)**

22 JUDGE CENTER: Counsel, how long do you think your next  
23 witness is going to take?

24 MS. DYE: I hope to be done with her by 12:30. It's  
25 11:40.

## English

1 JUDGE CENTER: All right. Let's go ahead and start. It's  
2 a little early for lunch still.

3 **(Off the record.)**

4 **JUDGE CENTER: Go back on the record.**

5 Counsel, call your next witness.

6 MS. DYE: General Counsel calls Renee Young.

7 JUDGE CENTER: Ms. Young, would you stand and raise your  
8 right hand?

9 (Whereupon,

10 **RENEE YOUNG**

11 was called as a witness by and on behalf of the Agency and,  
12 after having been first duly sworn, was examined and testified  
13 as follows:)

14 JUDGE CENTER: Please state your name.

15 THE WITNESS: Renee Elizabeth Young.

16 JUDGE CENTER: Please spell that for the court reporter.

17 THE WITNESS: Renee, R-e-n-e-e; Elizabeth,  
18 E-l-i-z-a-b-e-t-h; Young, Y-o-u-n-g.

19 JUDGE CENTER: Counsel, proceed.

20 MS. DYE: Does she need to put the little thing on?

21 COURT REPORTER: Yes. I'm sorry.

22 THE WITNESS: Where do I put it?

23 COURT REPORTER: Just anywhere up here, ma'am. Right  
24 there's fine.

25 **DIRECT EXAMINATION**



Young

1 Q. BY MS. DYE: Ms. Young you work the rural development?

2 A. I do.

3 Q. And what is your position?

4 A. I'm an area technician.

5 Q. And what's the grade of that?

6 A. Seven.

7 Q. Okay. Are you a member of AFGE local 571?

8 A. Yes.

9 Q. And do you hold any position in that?

10 A. Yes.

11 Q. What's that?

12 A. Vice president.

13 Q. How long have you been vice president?

14 A. Since September of 2013.

15 Q. Okay. How did you come to be -- were you like the --  
16 something before that in the Union or how did you come to be  
17 that?

18 A. Our president at that time contacted me and said that she  
19 was accepting a position in management and that the Union  
20 wouldn't have a leadership and asked me if I would take the  
21 position.

22 Q. And was that the first position you've ever held?

23 A. Here in Texas, yes.

24 Q. Okay. We're here about the centralization of 502 direct  
25 and guaranteed student -- single family housing loans that

Young

1 occurred in summer of 2014. So prior to the centralization,  
2 what were your duties?

3 A. As an area technician my duties were primarily the single  
4 family housing direct program. And what I did was assisted  
5 callers or visitors to the office with providing the  
6 application and information. I assisted applicants with  
7 completing the application packages.

8 And once an application was received, then I would verify  
9 the application for completeness and that it contained all the  
10 documents and signatures and all that. Once it was a complete  
11 application, then I would put it into our origination system.  
12 And then I would verify things like income, credit, employment  
13 history. I would order credit reports. I would check other  
14 federal systems to make sure there wasn't an unpaid federal  
15 debt and things like that.

16 Once the credit report was received then I would analyze  
17 the credit. Contact the borrower with questions or anything  
18 like that. And then I would underwrite, make a recommendation  
19 for approval or denial of a loan, and send that on to the  
20 specialist who would make the final decision on approving or  
21 denying.

22 If it was approved, then I would work with the new  
23 applicant or new borrower and -- on getting, you know, their  
24 contract. Once we got a contract, then I would order  
25 appraisals and inspections or ask for inspections, and we've

Young

1 had to do site visits and things like that. And then we would  
2 -- I would -- I lost my train of thought. So then once we had  
3 the contract and we got all the inspections, then we work with  
4 attorneys, closing attorneys or agents on closing, set up  
5 closing. Complete the closing docs, have our closing, and make  
6 sure the deeds are recorded and all that.

7 In the meantime, you're also -- you know, there's a credit  
8 report fee, so there's fees that you're taking care of and  
9 getting to our central office in St. Louis. That was on the  
10 single 502. We also have a single 504 that we did the same  
11 thing, only that program is for repairing, for very low income  
12 applicants, their homes. But it was basically the same. You  
13 got the application and you did all the verifications and that.  
14 And then you inspections and got your -- at that, you know,  
15 time we had contractors. We worked with contractors and  
16 everything on the repairs that had to be made.

17 But the 502 also has, besides the building or buying an  
18 existing home, the 502 also has repairs, which the process is  
19 the same as the one I just described.

20 Q. But is the one that you just described, that's 504; did  
21 you say?

22 A. The one that I just went into great detail, that was the  
23 502.

24 Q. Okay.

25 A. But the 504 is similar. It's just that is for very low

Young

1 and it's for repairs. It's not to buy or purchase or build.

2 And then the 502 repair, there's also 502 repairs.

3 Q. Okay.

4 A. And they're all similar as far as accepting the  
5 applications, reviewing the documents, verifying income and all  
6 that. And then, you know, I also had duties in -- technical  
7 duties in like the multi-family housing where I did -- Grade 7,  
8 I did -- updated insurance and tax receipt information in our  
9 system. I printed reports or did letters to the borrowers or  
10 the management companies. Ordered financing statements, things  
11 that are Grade 7. I worked with our Grade 12 who did the other  
12 things with that program.

13 We also have clerical duties where I did -- ordered  
14 checks, disbursements for the housing. And the community  
15 facility programs, where we order disbursements of loan  
16 disbursement checks. And then any collections, any payments or  
17 anything we got in, we have to send to our central office in  
18 St. Louis, so I would complete the paperwork and get those  
19 checks out there.

20 Answer phones; the phones is a big one. Answer phones for  
21 our customers, our borrowers, and a lot of our borrowers are --  
22 without sounding ugly -- they're low income, very low income,  
23 and rural, and a lot of them are uneducated. It's just a fact.  
24 And so they need a lot of help. I mean, sometimes a lot of  
25 them you have to go to the home to help them, especially the

Young

1 elderly. Which I love.

2 Q. So in some cases you actually go to their home?

3 A. Yes. And my clerical duties, so we did collections and  
4 assisted our visitors and our callers. A lot of our applicants  
5 come to our office and you have to actually take the  
6 application and help them fill it out. We get a lot of people  
7 that can't read or write. But a lot of our people, because  
8 they're low income -- they're low income, they're on Social  
9 Security or, you know, that kind of income, so they're limited  
10 on -- the paperwork is overwhelming and they don't really  
11 understand it. So you do have to assist them. I like that  
12 part of my job. That's why I've been here so long, but --

13 And then, you know, there other duties, clerical duties.  
14 There's filing and postage meter -- requesting files and  
15 updating our postage, ordering supplies, sending out news  
16 releases, advertising foreclosures, things like that.

17 Q. Now, how long have you worked for RD?

18 A. Thirty-one years.

19 Q. And have you always been in the Temple office?

20 A. No.

21 Q. Where were you before?

22 A. In our main -- our Centralized Servicing Center in  
23 St. Louis.

24 Q. Have you always been a technician?

25 A. No.

Young

1 Q. What are the other positions you've held?

2 A. I've been bargaining and non-bargaining. I've worked in  
3 Centralized Servicing. I started out as a technician. I went  
4 to a processor, went into a workflow technician, and then I  
5 went into a financial specialist, which I was before I came to  
6 Texas in July of 2011.

7 Q. And what grade was that?

8 A. An 11.

9 Q. Doing the financial specialist, did you do like 502?

10 A. I worked in the department in St. Louis that was called  
11 the field assistance desk, field support section. And the  
12 field support section is when area offices, like the one I'm  
13 in, if they need assistance on loan closings, approvals, the  
14 system, or regulations, statutes, they contact the field  
15 support section. If they needed, you know, accounts audited  
16 or, as being the specialist of the department, I was the  
17 liaison that the area offices would contact for assistance.  
18 And I also trained area offices on new loan originations and  
19 our new loan origination system.

20 Q. Now, are these questions that they were calling about like  
21 high level stuff in terms of, you know, this might affect other  
22 programs?

23 A. Yes.

24 Q. Okay, and when did you come to Texas?

25 A. July of 2011.

Young

1 Q. And you came to Texas as a 7?

2 A. Yes.

3 Q. Okay, now prior to -- you just described what you did  
4 prior to the centralization. What did you do after the  
5 centralization?

6 A. After the centralization, my primary duties are multi-  
7 family housing, which I don't really experience in. I have  
8 just general experience as far updating insurance information  
9 or tax receipts, pulling reports for my grade 12 specialists  
10 and things like that. But now I am in charge of multi-family  
11 housing. And I have to do all the things I was doing, but I  
12 have to do proposed budgets, annual budgets, affirmative fair  
13 housing plans, marketing plans, management plans, supervisory  
14 visits, inspections, financing statements, things that are --  
15 honestly, I'm lost. I am lost. And I'm not complaining. I  
16 try to do the best I can, but I do feel worried about the job  
17 that I'm doing, because I'm not -- I've been in housing for 31  
18 years -- or 30 years. And --

19 Q. But has it been the multi-family housing?

20 A. No, in the single family direct. And I also, though,  
21 still work in the single family housing on -- we still have to  
22 do part of the single family housing. If it's a 502 repair  
23 those are still done in the area offices. 504, are all done in  
24 the area offices. We still have to take all the calls, assist  
25 the visitors. If, you know, somebody comes to our office and

Young

1 needs assistance with the apps, we still have to do it. We  
2 still have to do outreach, which is where we go and give  
3 presentations about the program. We still do some of the  
4 collections for the credit report fees. We assist the  
5 applicants; we provide outreach.

6 On the 504s, which is also part of the direct, we do the  
7 whole thing: the inspections, the app, the loan origination,  
8 the underwriting, the approval, the closing; all that's still  
9 done in the area office.

10 Q. Okay, what about your collateral duties, have they  
11 changed?

12 A. No. Actually, mine haven't changed. I'm still doing the  
13 collections, still doing the supplies, the postage, the news  
14 releases, the phone calls and the visitors. In my office we  
15 didn't have anyone put on the single family housing, but in  
16 other offices that had somebody put on the team, they are still  
17 physically located there, but they don't assist. So the other  
18 employees are having to do all the collateral duties, even  
19 though -- because even that body's there, they don't assist.

20 Q. Were you given training in multi-family housing?

21 A. No.

22 Q. Had you ever worked in multi-family housing to the extent  
23 that you're working now?

24 A. No.

25 Q. Did they give you like, I don't know, handbooks or --



Young

- 1 A. Yes, we have three handbooks that are like that big.
- 2 Q. And did they go through --
- 3 JUDGE CENTER: And could you explain how big that is?
- 4 THE WITNESS: Oh, guess it's --
- 5 JUDGE CENTER: Four or 5 inches?
- 6 THE WITNESS: Yeah, 6, 7 -- I don't know -- yeah.
- 7 Q. BY MS. DYE: And so did you supervisor over those
- 8 handbooks with you and explain what you had to do?
- 9 A. No, my Grade 12 supervisor was put on a special project,
- 10 and so I -- our office is limited. But my Grade 12 tells me,
- 11 she really isn't -- that the training -- you know, that she
- 12 needs some training on some of it. So I have to call other
- 13 area offices and ask for assistance, which honestly I know that
- 14 I've approved budgets and they were wrong, that I know I've
- 15 made errors, but I'm doing the best I can.
- 16 Q. So you're doing budgets. You weren't doing budgets
- 17 before?
- 18 A. No.
- 19 Q. And when you say call other area offices, what are you
- 20 calling for?
- 21 A. I will call other like multi-family housing people that
- 22 have worked on the program. And I'm not the only one. There
- 23 are other techs that are in the same position I am, that
- 24 they're like, you know, I don't have a clue what I'm doing.
- 25 I'm like, I know. So I will call and ask like Deb Rye (ph.),

Young

1 another Grade 12 in another office for a particular -- you  
2 know, like budgets, I will call and go, well, you know, explain  
3 what does it mean by this. And they do the best they can. I'm  
4 not saying they don't assist me; they assist me. It's just I  
5 need some real training. I need to understand it.

6 Q. Okay. I'm giving you some documents that have been  
7 entered into the evidence. It's General Counsel's evidence.  
8 Would you turn to General Counsel Exhibit 2, please?

9 Okay, can you tell me what this is? Is the agreement  
10 between the AFGE and Rural -- well --

11 A. It's part of it.

12 Q. -- is the current agreement between the AFGE and Rural  
13 Development?

14 A. Yes.

15 Q. Now this says NFFE?

16 A. From what I understand, it's because back, I don't know,  
17 back years ago it used to be NFFE, and then AFGE became the  
18 bargaining unit.

19 Q. But you continued to use this collective bargaining  
20 agreement?

21 A. Yes.

22 Q. Okay, so you could you turn to page 9, which is the third  
23 page in.

24 A. Okay.

25 Q. Is the section that covers negotiations between the

Young

1 parties?

2 A. Yes.

3 Q. Does this having anything in there in terms of the number  
4 or the time by which the agency has to give notice to the  
5 Union?

6 A. No.

7 Q. Is there anything in there about the Union being required  
8 to submit demand to bargain or submit -- or, you know, when  
9 they have to submit the proposals?

10 A. No.

11 Q. Or dates they have to do it or the form that they have to  
12 do it?

13 A. No.

14 Q. Have you ever been required to submit your request to  
15 bargain? I realize that you only have a couple years'  
16 experience. But in your experience were you -- you know, when  
17 you were given notices of changes, were you ever required to do  
18 it within a certain amount of time before?

19 A. No.

20 Q. Could you look at General Counsel Exhibit 4, please? Just  
21 take a look at this and familiarize yourself with it.

22 A. Okay.

23 Q. Do you know what this is?

24 A. Yes.

25 Q. Okay, tell me what it is.

Young

- 1 A. It's an email that Sylvia sent me saying that she wanted  
2 to talk me about a plan that management was going to implement.
- 3 Q. And what was the plan; did she tell you?
- 4 A. Not with this email. We talked on the phone.
- 5 Q. Okay. So you got notice on June 5th. And where did she  
6 want to discuss the plan?
- 7 A. By phone, because I'm Huntsville and she's in Temple.
- 8 Q. Okay. I mean the -- did she want to do it in bargaining  
9 or was it just supposed to be you and her?
- 10 A. No, she wanted to talk to me.
- 11 Q. In her office?
- 12 A. Yes. No, by phone, just me and her. She wanted to  
13 discuss this plan.
- 14 Q. So did you talk to her by phone?
- 15 A. Yes.
- 16 Q. Okay, and what did she say?
- 17 A. The next day I talked to her. She talked to me and  
18 explained about centralizing. She asked if I would talk to her  
19 and Theresa Jordison about this plan that management was going  
20 to implement about centralizing.
- 21 Q. Okay, could you take a look at General Counsel Exhibit 5?
- 22 A. Uh-huh.
- 23 Q. It's dated June 6, 2014.
- 24 A. Yes.
- 25 Q. Can you tell me what this is?

Young

1 A. Well, on June 6, I talked to Sylvia Maedgen and Jordison  
2 for almost three hours, and they explained the plan. We talked  
3 about, you know, why they wanted to do this plan, and they  
4 asked -- they wanted to bring it to our labor-management forum  
5 for, they called it pre-decisional item. So later that day,  
6 after we talked on the phone, she sent me a copy of this plan.

7 Q. If you turn to the next page it says Union 102 -- 101,  
8 102, 103, 104. Is this the plan that they gave you?

9 A. Yes.

10 Q. Is this what you talked about at the meeting?

11 A. Yes.

12 Q. Now, here one of the documents, I believe, says something  
13 about the 504 plan, 504 program?

14 A. Yes.

15 Q. Did that end up being centralized?

16 A. No. And not all of 502 was centralized either.

17 Q. Okay. If you take a -- could you take a look at General  
18 Counsel Exhibit 6, please. Can you tell me what this is?

19 A. This is Sylvia emailing the labor-management forum  
20 members, setting up the forum meeting for Wednesday on the  
21 25th. And she has agenda items on there, which included the  
22 centralization program.

23 Q. So is the first labor-management forum meeting that you've  
24 had since she gave you the plan details?

25 A. Yes.

Young

1 Q. Did you actually meet on June 25, 2014?

2 A. We did. We did.

3 Q. And what occurred at the meeting?

4 A. Well, we talked about their plan and the purpose. You  
5 know, we talked -- Jordison spoke about the plan and why they  
6 felt they wanted to do the plan, and the Union talked about the  
7 impact it would have on the employees. And, you know, we  
8 questioned did they really need to centralize because the  
9 experts were already in the field offices. Their primary  
10 duties were already in the single family housing direct. And  
11 that if -- you know, given the opportunity to only work on that  
12 program, they would be able to accomplish what management was  
13 saying that the centralized plan would.

14 And that -- we also talked about our concerns on the  
15 impact on employees on their hours, their telework, their  
16 vacations, and people possibly being demoted. Because when you  
17 take all the duties of obligating and ordering disbursements  
18 and things like that, even Grade 7's could be demoted. And --

19 Q. They didn't actually say they were going to demote  
20 anybody, though?

21 A. No, but that was a Union concern.

22 Q. But this was one of the concerns you raised?

23 A. Yes. We talked about, you know, what was management's  
24 plan for selecting the team members, and at that time they  
25 talked -- they wanted to use merit promotion questionnaires.

Young

1 They didn't want to give a rating to -- they wanted employees  
2 to submit a letter requesting -- volunteering, requesting to be  
3 on the team, a resume and the questionnaires. And we didn't  
4 have the questionnaires during the meeting, but they kept  
5 talking about these questionnaires, which are the same  
6 questionnaires that when they're posting a job that -- like on  
7 OPM or whatever, that they use.

8 Q. USA Jobs, you mean?

9 A. Yes, USA Jobs. That they use to rate applicants. The  
10 Union made suggestions on how to select employees based on if  
11 their primary duties were already housing, then if you had more  
12 volunteers than, you know, positions, that maybe, you know, it  
13 should be seniority or blah, blah, blah.

14 But we really wanted them to consider not moving FTEs out  
15 the area offices who were already understaffed. I mean, we  
16 have a lot of offices that only have one or two employees. So  
17 if you take a FTE out of that office that has two employees  
18 already, now you're down to one. When does that employee get  
19 leave? How do they get advantage of all the other benefits of  
20 AWS, alternative work schedules; telework, any of the other  
21 benefits that we had enjoyed, you know?

22 Plus, how does those two employees that are left -- let's  
23 say you had three and you take one and there's now those two  
24 employees; one has to be there to man the office. The other  
25 programs require a lot of inspections, environmental and

Young

1 things like that that require somebody to be out of the office.

2 And a lot of our borrowers are two to three hours away; you

3 have to have somebody there. So when do either one of these

4 guys get to have vacation time off, telework, anything?

5 Anything? And now you're going to take away. We're already

6 understaffed in these offices, plus you've already got the

7 experts out there.

8 Q. Now, this is still -- you're still talking pre-

9 decisionally? This is in your labor-management forum?

10 A. Yeah, right, right.

11 Q. Okay. Could you turn to Exhibit 7A, please? You just

12 mentioned the questionnaires that you had to fill out when you

13 applied for, you know, a vacancy announcement in this case.

14 A. Yes.

15 Q. Is what you're referring to?

16 A. Right. After the meeting she sent this to us, the forum

17 members.

18 Q. Okay. And did you plan -- did they parties agree to meet

19 again? Were you going to continue meeting about it?

20 A. Right. We were going to -- she was going to send these to

21 us. The union members really didn't know, you know, these

22 questionnaires whatever. The Union three forum members were

23 going to meet and discuss the meeting, the plan, the meeting,

24 the questionnaires, all of it.

25 Q. When did the Agency propose to have the next meeting?



Young

1 A. I don't think that day we had suggested another meeting or  
2 the date of the next meeting. We just said that, yeah, we'd  
3 all get back together and discuss it. And --

4 Q. You're referring to actually at the meeting that, you  
5 know, you hadn't decided?

6 A. Right, right.

7 Q. If you look, take a look at the bottom of the email on 7A?

8 A. Oh, yeah, this was when she sent the questionnaires out.  
9 But at the meeting we hadn't discussed any specific dates or  
10 times.

11 Q. But she was suggesting it in this email?

12 A. Yes.

13 Q. Okay, so was it for June 27th?

14 A. Yes, the next day.

15 Q. Did you actually -- turn to General Counsel Exhibit 8,  
16 please. Can you tell me what this is?

17 A. It's an email from Sylvia to the forum members asking to  
18 meet. This was on the 26th, asking to meet the next day.

19 Q. Okay, so this another email saying let's get together  
20 tomorrow?

21 A. Yes.

22 Q. Okay. Could you turn to General Counsel 9, please? The  
23 bottom email there is that the same email that we just looked  
24 at in General Counsel 8?

25 A. It is.

Young

1 Q. Okay, and read the email at the top dated June 27th and  
2 tell me what this is about, please.

3 A. This is an email I sent responding to Sylvia's wanting to  
4 meet the next day and reminded her that the union member's  
5 hadn't had an opportunity to even talk, and that my concerns  
6 about the serious impact that this plan could have on all  
7 employees and that without being able to meet or anything, I'm  
8 saying, you know, we can't agree or disagree with management's  
9 idea until we get time to talk. I let her know that Dorothy  
10 and I, who were two of the three members, were getting ready  
11 for vacation at that the end of close of business that day, and  
12 that as soon as we return from vacation that we would meet as  
13 soon as possible to discuss this and keep moving on it.

14 Q. Was this something that had been prescheduled and  
15 approved, the leave?

16 A. Yeah, it was approved in May.

17 Q. Okay. Did the labor management-forum meet again about --  
18 pre-decisionally about the, you know, possibility of  
19 centralizing the office?

20 A. No.

21 Q. When you were discussing this issue pre-decisionally, what  
22 did you understand in terms of what you were trying to come --  
23 what kind of an agreement you were trying to come to?

24 A. Well, pre-decisionally I -- the Union understood that it  
25 was -- you know, I knew really it wasn't pre-decisional. Pre-

Young

1 decisional is when you got the thought there was an issue, that  
2 that's when labor and management come together and they create  
3 a plan. But the plan was already created, but we were okay  
4 with it. If they really want to work on this and call it pre-  
5 decisional, the Union's okay with that. So we were going to  
6 work with them, and that the Union would have equal input.  
7 That's what the labor-management forum is.

8 Q. Did you think, I mean, at the time that you were meeting  
9 pre-decisionally, did you think there was a possibility that  
10 you could convince the Agency or, you know, talk through the  
11 forum about maybe doing it a different way or incorporating  
12 different aspects into it?

13 A. Yes.

14 Q. Okay, so turn to General Counsel Exhibit 10, please. And  
15 there's an attachment. So there is -- there's several  
16 attachments. So start with the second page, which is the first  
17 attachment and tell me what this is.

18 A. This is a letter from Paco, the state director to me, to  
19 the Union, saying they intend to implement the centralization  
20 that we had just talked about. It was sent on July 3rd when I  
21 was on vacation.

22 Q. So instead of meeting again as the parties agreed in the  
23 labor-management forum, the Agency decided to give you a notice  
24 of change?

25 A. Yes.

Young

1 Q. Okay. Could you look at the next page? Can you tell me  
2 what this is?

3 A. This is their plan.

4 Q. Okay, had you been given this information before?

5 A. I don't know that it's exactly the same information, but  
6 it looks similar to the plan that I got originally.

7 Q. Okay, and did they attach those questionnaires that you  
8 had been given?

9 A. Can I look back?

10 Q. I'm talking about this document. We already looked at  
11 some questionnaires. Did this notice to bargain include the  
12 questionnaires that you'd previously been given?

13 A. Yes, yes.

14 Q. So you were working with them pre-decisionally to come to  
15 a decision and then they gave you notice it was just going to  
16 be a change?

17 A. Yes.

18 Q. Okay. So did they give you a timeline by which they  
19 wanted to respond?

20 A. Yes, 10 days.

21 Q. And there's nothing in your collective bargaining  
22 agreement which requires bargaining to be requested within 10  
23 days?

24 A. No.

25 Q. Now, this is dated July 3rd, and you just testified that

Young

1 you were starting annual leave on the 27th of June?

2 A. Yes.

3 Q. Were you in the office on July 3rd?

4 A. No.

5 Q. Okay. Did you respond to this request to bargain?

6 A. I did.

7 Q. Could you turn to General Counsel Exhibit 11, please.

8 And go back four pages. Start the first email, is the email  
9 that we just looked at in General Counsel 11 [sic]. So I want  
10 you to look at the fourth page at the top of that.

11 A. Okay.

12 Q. Now, were you back in the office in July 9th?

13 A. Only because I came back. I have a habit of taking my  
14 laptop home, and I'd seen this.

15 Q. So you left your vacation to come into the office to deal  
16 with this?

17 A. Um-hum.

18 JUDGE CENTER: You have answer yes, or no.

19 THE WITNESS: Oh, I'm sorry, yes.

20 Q. BY MS. DYE: So tell me what this email is about.

21 A. Pardon me?

22 Q. Tell me what this is about.

23 A. I'm asking them -- I'm telling them I'm confused. I  
24 thought that this was a labor-management forum issue and that  
25 we were going to meet again.

Young

1 Q. Okay. Go to page 3. What is this email?

2 A. I didn't receive any response, so I sent another one and  
3 said, you know, I thought the labor-management forum was going  
4 to be working on this as a joint project, and that I'll explain  
5 pre-decisional to the labor-management forum, and let them know  
6 at that moment we weren't requesting to negotiate -- because I  
7 thought it was a labor-management issue, but that we weren't  
8 waiving our right to negotiate.

9 Q. Okay. And could you look at page 1, and it goes over to  
10 page 2, did the agency respond to your email?

11 A. Yes.

12 Q. And what was the response?

13 A. Their explanation of why they thought they should  
14 centralize and they made it sound like it was urgent. And then  
15 they talked about the vacations they were all going to be on  
16 and traveling that they all were going to be on, and so they  
17 felt that we do implement --

18 Q. Okay, and the top email. Can you tell me what the top  
19 email is?

20 A. A demand to bargain and a request for information.

21 Q. Okay, go about five pages in where it says Union 30.

22 A. Okay.

23 Q. Is this the attachment to the document?

24 A. Yes.

25 Q. Is this your request to bargain?

Young

1 A. Yes.

2 Q. As part of your request to bargain did you request  
3 information?

4 A. I did.

5 Q. Can you look at page 32? Thirty-two is at the bottom of  
6 this particular document. It doesn't mean that it's page 32 of  
7 the whole thing.

8 A. I know.

9 Q. Okay. Is this the information request that you made?

10 A. It is.

11 Q. Could you turn to General Counsel Exhibit 12, please? Can  
12 you tell me what this is, please?

13 A. It's an email I sent out to all our union employees  
14 notifying them of management's intent to centralize.

15 Q. And this is -- you sent it out on what date?

16 A. The 18th.

17 Q. Okay. Could you take a look at General Counsel Exhibit  
18 14, please? No, there is no 14. I meant 13, sorry.

19 A. 13?

20 Q. Yeah, 13. That's what I meant, sorry. What is this?

21 A. It's another email to our union employees.

22 Q. Take a look at General Counsel Exhibit 15, please. This  
23 also has five pages. Now, going from the back, it's the  
24 request bargain, your emails to the Union that we've already  
25 discussed about -- that we've already discussed.

Young

1           So could you take a look at the first page at the bottom  
2   and tell me what this is?

3   A.    In my demand to bargain, I had requested that we meet. I  
4   had suggested a date of negotiation -- a meeting for  
5   negotiation. And I hadn't heard from management. The date  
6   came and went. And so I sent an email and said, you know, it's  
7   been over a week and the Agency projected a sense of urgency,  
8   but you're not responding to the Union. And so I asked them to  
9   provide the Union a date management could meet to begin the  
10   negotiations.

11   Q.    Okay. Now, had they responded to your request to bargain?

12   A.    No.

13   Q.    The bargaining request was made on July 16th?

14   A.    Yes.

15   Q.    And can you look at the top of the email there?

16   A.    Yes.

17   Q.    And what does that say?

18   A.    Sylvia is saying that she plans to give me response today.

19   Q.    Okay. Could you take a look at General Counsel 17,  
20   please?

21   A.    16?

22   Q.    Oh, yes. There is no 17; there's a 16. I'm sorry.

23   A.    Okay.

24   Q.    I'm confused. I don't mean to confuse you.

25   A.    No, I'm fine.



Young

- 1 Q. We are looking at General Counsel 16.
- 2 A. Okay.
- 3 Q. So the email that's about halfway down the page, July
- 4 25th, can you tell me what this is?
- 5 A. It's management's response to my email.
- 6 Q. And if you look at the next page, is that attachment to
- 7 the email?
- 8 A. Yes.
- 9 Q. And that's the Agency's response to the -- Agency -- now,
- 10 the first one is an information request. That's an Agency
- 11 response to the information request?
- 12 A. Yes.
- 13 Q. So if you go about six pages in, there's another letter at
- 14 the top dated July 25th. And this is in response to your
- 15 request to bargain?
- 16 A. Yes.
- 17 Q. Could you go to page 3 of that, please? Does the Agency
- 18 suggest a date to begin bargaining?
- 19 A. Yes.
- 20 Q. And what's that date?
- 21 A. August 1st.
- 22 Q. Okay, so you were -- did you agree to bargain on August
- 23 1st?
- 24 A. Yes.
- 25 Q. Okay. And then the next page of that is also July 25th,

Young

1 can you tell me what that's about?

2 A. This is another letter --

3 Q. Is the Union -- what's the Agency saying to the Union  
4 here?

5 A. They're saying that they sent a proposal and the Union was  
6 asked to provide our input, but they're trying to say that we  
7 requested information in order to stall the implementation of  
8 the centralization.

9 Q. Is that referring to the Union's request for information?

10 A. It is.

11 Q. Does the next sentence also refer to the number of hours  
12 that they'd previously talked about this program?

13 A. Yes.

14 Q. Could you look at General Counsel 18, please. Can you  
15 tell me what this is?

16 A. This is where we're again asking some official time to  
17 prepare for the bargaining meeting that was scheduled for  
18 August 1st. And the Union is letting them know that we'll be  
19 there, but if we don't have official time, I'm not real sure  
20 how prepared we're going to be.

21 Q. Okay, but you did agree to the August 1st scheduling for  
22 the first date of the negotiations?

23 A. Yes.

24 Q. Could you look at General Counsel 19, please. And it's an  
25 email -- it has an attachment which starts on the next page --

Young

- 1   dated July 30th. Can you tell me what this is?
- 2   A.   This is a letter the Agency sent the Union saying that we
- 3   forfeited our right to bargain.
- 4   Q.   And why had you forfeited your right to bargain?
- 5   A.   I'm not real sure, still don't understand.
- 6   Q.   Okay, if you take a look at the fourth full paragraph, the
- 7   first sentence, does it tell you why?
- 8   A.   Well, they say it was because the Union didn't submit any
- 9   proposals, but we did on the 16th. So then they agree to have
- 10  -- then they're saying, well, we can have a meeting the next
- 11  day, a non- -- one last non-binding time to meet.
- 12  Q.   So they still said they'd meet on the 1st, but it was non-
- 13  binding?
- 14  A.   Well, now they're changing it to the 31st in this letter.
- 15  Q.   Oh, sorry. Yes, the 31st. So did you all meet on the
- 16  31st?
- 17  A.   Um-hum.
- 18  Q.   Did you meet?
- 19  A.   Oh, it was -- yeah, we met.
- 20  Q.   And what day did you meet?
- 21  A.   The 1st.
- 22  Q.   Okay. Could you look at General Counsel Exhibit 20,
- 23  please.
- 24  A.   Okay.
- 25  Q.   And can you tell me what this?

Young

1 A. It's a letter in response to their letter saying, you  
2 know, that the Union did submit the demand to bargain in our  
3 proposals, and a request for information. That we had  
4 requested a meeting, and that the Union's offer to meet on the  
5 1st, it still stood. And that we were concerned that the  
6 negotiations would be very limited because we hadn't received  
7 any official time or information that we requested; however, we  
8 were willing to give it our best shot.

9 And then I said that, you know, the Union might be willing  
10 to accommodate the Agency on the 31st instead of the first;  
11 however, that not all the union team members would be able to  
12 do that.

13 Q. Could you look at General Counsel Exhibit 21, please.  
14 Now the -- there is two pages. The second page is referring to  
15 the email that you were just talking about, in General Counsel  
16 21. So on the first page at the bottom, can you tell me what  
17 this is?

18 A. It's an email where I said, you know, that I would be able  
19 to travel the next day, because -- then they changed it again  
20 or something. They wanted to meet on the 30th. And so I  
21 agreed to meet with them, but I told them that the other two  
22 union members were already gone for the day and that I wasn't  
23 able to reach them. And that I was willing to come, but  
24 without all the representatives being available, I didn't  
25 really know how much we could accomplish, basically is what I

Young

1 said.

2 Q. And they were basically saying, okay, we can meet on July  
3 30th?

4 A. Right.

5 Q. On July 31st, I'm sorry.

6 Could you look at General Counsel Exhibit 22, please. Did  
7 you actually drive to the Temple office to meet with the  
8 Agency?

9 A. I did; I started out. I drove for like over an hour. And  
10 in that, you know, I'm calling Sylvia and going like -- she's  
11 trying to arrange for the other two union members to get there  
12 and I'm like, Sylvia, I mean, one of our union members on the  
13 bargaining team lives pretty far away and she normally has to  
14 stay overnight when she travels. It just was -- but I wasn't  
15 going to not meet. So I'm driving and talking and finally  
16 Sylvia's like, just turn around. So I did.

17 Q. Okay. If you look at the first page of General Counsel  
18 Exhibit number 22 --

19 A. Yes.

20 Q. So is the Agency suggesting another day to meet?

21 A. Yeah.

22 Q. And was that the 14th?

23 A. The 14th? The 1st.

24 Q. So it says 8/14?

25 A. Right, but it's supposed to be 1, 8/1/14.

Young

- 1 Q. Okay. And did the Union agree?
- 2 A. Yes.
- 3 Q. Could you take a look at General Counsel Exhibit 23,
- 4 please. Can you tell me what this is?
- 5 A. This is a letter that the Agency sent out to all
- 6 employees, what they called clarifying the Union's recent
- 7 emails.
- 8 Q. Okay. Could you take a look at paragraph two please and
- 9 look at the sixth full paragraph down. It's three from the
- 10 bottom.
- 11 A. Which one now?
- 12 Q. The third paragraph from the bottom. About halfway
- 13 through, it discusses area specialists at the GS-12 grade
- 14 level.
- 15 A. What page are you on?
- 16 Q. Page 2.
- 17 A. Oh.
- 18 Q. Sorry.
- 19 A. Okay.
- 20 Q. And can you -- so at the third one from the bottom, about
- 21 halfway through, it's discussing area specialists.
- 22 A. Yes.
- 23 Q. And what does it say about them?
- 24 A. That that Grade 12 wouldn't be considered.
- 25 Q. And why is that?

Young

1 A. Because Grade 12s have to do more complex work in order to  
2 keep a Grade 12, which is the community facilities, the multi-  
3 family housing, or -- B&I, business and industry.

4 Q. So GS-12s get their grade because they deal, you know,  
5 with these more complex programs?

6 A. Yes.

7 Q. Okay. Is this email on July 31st, is this basically  
8 describing the entire the program that the Agency has proposed  
9 to bargain with the Union and has now said they wouldn't  
10 bargain?

11 A. This letter? Yes.

12 Q. Okay, could you take a look at General Counsel Exhibit 24.  
13 Okay, there's an attachment to it. It says charter.

14 A. Yes.

15 Q. What is that charter?

16 A. That is the national level charter for the labor-  
17 management forum.

18 Q. It describes how labor-management forums should be set up  
19 like locally?

20 A. Yes.

21 Q. Okay. So can you tell me what this email's about?

22 A. We had the meeting on August 1st, and we had a little  
23 disagreement about what pre-decisional involvement was. And so  
24 two of the people on the management half, they weren't part of  
25 the labor-management forum; they weren't in on the training for

Young

1 pre-decisional involvement, and they kept saying that the Union  
2 was given pre-decisional involvement. And I kept saying, no,  
3 pre-decisional involvement is before you wrote the plan. And  
4 so there was a dispute about it, so I provided them with the  
5 definition of PDI.

6 Q. Okay, now the Agency's already given you notice to  
7 bargain. The Union has requested to bargain. Now, did the  
8 Union request to bargain over the change itself? Did you want  
9 to bargain over the program, whether or not it be centralized  
10 itself?

11 A. Yes.

12 Q. Or did you request to bargain over the -- make sure you  
13 understand what I'm asking. The request to bargain that you  
14 put in on July 16th, you'd already met pre-decisionally.

15 A. Yes.

16 Q. This is a notice to bargain. The request to bargain, did  
17 you request to bargain over the centralization itself or the  
18 impact to implementation?

19 A. The impact on the employees, the bargaining unit  
20 employees.

21 Q. Okay. So why are you talking in here about pre-  
22 decisional?

23 A. Because it was brought up in the meeting. And honestly --

24 Q. How was it raised in the meeting?

25 A. I believe Allen -- I can't remember if his last name's



Young

- 1   Lanbury or Lambert, whatever -- had said something about it  
2   being submitted to the LMF as a pre-decisional involvement.  It  
3   started a big discussion about what pre-decisional, PDI is.  
4   And they argued and argued and were rather rude.  Mean, ugly.  
5   And so I provided, out of the charter, the PDI.
- 6   Q.    Could you take a look at General Counsel 26, please.  
7   Going to the bottom.  It's an August 5, 2014 email?
- 8   A.    Wait a minute.  Did you mean 25?
- 9   Q.    Oh, yes, I'm sorry, 25A.
- 10  A.    Okay.
- 11  Q.    So the bottom email.
- 12  A.    Yes.
- 13  Q.    Can you tell me what this is?
- 14  A.    Advanced notice to the Union that the Agency was going to  
15  issue the centralization plan to employees and let them apply  
16  for it.
- 17  Q.    This is the implementation of the plan that they refused  
18  to bargain over?
- 19  A.    Yes.
- 20  Q.    Okay.  So could you look at General Counsel -- well, at  
21  the top of that page?
- 22  A.    Yes.
- 23  Q.    The second paragraph.
- 24  A.    Yes.
- 25  Q.    Is this from the Union to the Agency?

Young

1 A. It is.

2 Q. And what are you saying?

3 A. That I -- we're currently in negotiations, and that they  
4 were obligated to bargain and they would be violating the  
5 Statute if they didn't, if they implemented before bargaining.  
6 And that the Union would file a ULP and seek status quo or  
7 retroactive bargaining order. And I gave them -- I said we are  
8 willing and able to negotiate, and I offered them some dates,  
9 but I also let them know that I was again going out on vacation  
10 and I would be out of the office from August 6th to the 18th.

11 Q. So the Union's saying, you know, listen, we can still  
12 bargain this?

13 A. We should be bargaining this, negotiating this.

14 Q. Okay. Could you look at General Counsel 25B, please.

15 A. Yes.

16 Q. What is this document, along with its attachment?

17 A. This is the plan to the employee.

18 Q. This is the plan that the Agency told you at 3:16 p.m. on  
19 August 5th that they were going to be sending out to the  
20 employees implementing the program?

21 A. Yes.

22 Q. And what day did they send that out?

23 A. August 5th.

24 Q. The same day, later that afternoon?

25 A. Yes, yes.

Young

1 Q. Could you look at General Counsel 26, please. Can you  
2 tell me what this is?

3 A. It's a revision to the questions and answer part of the  
4 plan and application process that they had submitted to the  
5 employees the day before.

6 Q. Okay. I'm going to have to ask you to look at General  
7 Counsel Exhibit 25B. I forgot to ask you a question.

8 A. Okay.

9 Q. Sorry. So if you look at page 3.

10 A. Okay.

11 Q. If you look at the paragraph that's second from the  
12 bottom. Read this real quick and then we'll talk about it.  
13 I'll ask you questions.

14 A. Okay.

15 Q. What does this email say?

16 A. It's saying that -- this letter is saying that -- that  
17 there could be telework opportunities, that there may be some  
18 work schedule changes, and that --

19 Q. So they're saying that there could be changes in telework  
20 and there could be changes in work schedules?

21 A. Yes.

22 Q. Could you look at the next two pages? It doesn't have a  
23 page number, but at the top it say, "Centralization of the 502,  
24 504 loan processing."

25 A. Yes.

Young

1 Q. Okay. The first question, "Will I need to change my tour  
2 of duty?" can you just look at that real quick?

3 A. It says you may need to.

4 Q. It says that you may have to change your tour of duty as a  
5 result of the centralization?

6 A. Yes.

7 Q. And the next one's discussing telework?

8 A. Yes.

9 Q. And what does it say about that?

10 A. That it won't be automatic, that it'll be between the  
11 supervisor and the team leader.

12 Q. So there's a possibility that an agency -- an employee who  
13 is selected for the team could actually, maybe if they were on  
14 telework then, they could maybe, if their new supervisor didn't  
15 want it, they could not be on telework in the future?

16 A. Right. And also the supervisor is the same person, so it  
17 doesn't make sense that one could and one couldn't, either.

18 Q. And also that they might have their work schedules  
19 changed?

20 A. Yes.

21 Q. Is this one of the things that you requested to bargain on  
22 July 16, 2014?

23 A. It is.

24 Q. Okay, look at -- now take a look at General Counsel 26.  
25 It says at the top -- at the bottom, it says Union 98.

Young

- 1 A. Okay, which one am I supposed to be on, 26?
- 2 Q. Yeah, 26. There's an email --
- 3 A. I see it.
- 4 Q. -- you know, that says attachments. And attachment at the
- 5 bottom it says Union 98?
- 6 A. Yes.
- 7 Q. Okay, can you tell me what this?
- 8 A. It's questions and answers.
- 9 Q. And this the same as the question and answers they just
- 10 sent out?
- 11 A. No, it's a different one.
- 12 Q. What's the difference?
- 13 A. Submitting it to Human Resources instead of Maedgen.
- 14 Q. And are you still -- but does it still talk about, you
- 15 know, the tour of duty being changed, and you know, telework
- 16 options?
- 17 A. Yes.
- 18 Q. Okay. Could you turn to General Counsel 27, please. Can
- 19 you tell me what this is?
- 20 A. I had asked for assistance from the AFGE national rep and
- 21 he was going to be the chief negotiator, so I notified the
- 22 Union -- I mean the Agency.
- 23 Q. So at this point you're still saying, Agency, I'm willing
- 24 to bargain; I'm willing bargain; let's bargain about this?
- 25 A. Yes.

Young

- 1 Q. Turn to page General Counsel Exhibit 28, please. Can you  
2 tell me what this is?
- 3 A. It was Gary Martinez, the chief negotiator, now noticed  
4 our demand to bargain and --
- 5 Q. Go ahead.
- 6 A. And data request.
- 7 Q. Okay, so there's a data request in here as well?
- 8 A. Yes.
- 9 Q. So he also made a separate request to bargain?
- 10 A. Yes.
- 11 Q. But you'd already requested to bargain on July 16th?
- 12 A. Yes.
- 13 Q. Okay, could you take a look at General Counsel Exhibit 29,  
14 please. Can you tell me what this is?
- 15 A. This is an email that my manager shared with the people in  
16 my -- in Area 6 offices, his employees. It's an email from  
17 Jordison naming the team members.
- 18 Q. Could you take a look at the second page, please? The  
19 list of employees include somebody by the name of Starr MaGee.
- 20 A. Yes.
- 21 Q. What does the SP next to her name mean?
- 22 A. Specialist.
- 23 Q. And was she a specialist at that time?
- 24 A. No.
- 25 Q. What was she?

Young

1 A. A tech.

2 Q. So as a specialist she got a promotion to be on this team?

3 A. Yes.

4 Q. Okay. Could you take a look at General Counsel Exhibit  
5 30, dated September 15, 2014.

6 A. Yes.

7 Q. Could you tell me what this is, please?

8 A. Another from email from my manager providing information  
9 that he had received from Jordison.

10 Q. And what was the information?

11 A. That the new team members would start their new duties on  
12 Monday the 22nd, that we were to continue working on the apps  
13 that had been received in our office prior to that date, that  
14 both teams were going to be in on the 22nd.

15 Q. Do you know why this was set up? Why this was sent out?

16 A. I think because employees in bargaining and non-bargaining  
17 wanted to know who's doing what. Who's going to answer the  
18 phones? Who's going to help the customers? That's the only  
19 thing I can figure out.

20 Q. Okay, had you been getting a lot of questions?

21 A. Yes.

22 Q. Can you turn to General Counsel Exhibit 31, please. Just  
23 look at it real quick. It also includes an attachment. But for  
24 now let's look at the email. So the email is dated September  
25 19, 2014, 2:51 p.m.

Young

- 1 A. Yes.
- 2 Q. Attached to this email is that September 22nd letter that  
3 we were just looking at in General Counsel 31. No, not 31.  
4 Not 31. I'm sorry. This is the September 22nd notice that  
5 they were going to implement it?
- 6 A. Right, but it was sent on the 19th.
- 7 Q. Okay, so it's dated the 22nd, but it's actually on the  
8 19th?
- 9 A. Yes.
- 10 Q. Okay. Could you look at the email? The first paragraph  
11 of the email. Does it refer to the housing program being  
12 centralized before?
- 13 A. The first paragraph of the email?
- 14 Q. No, no, I'm sorry, the second paragraph.
- 15 A. It refers to the guaranteed 502 being centralized.
- 16 Q. And what does say with regard to that centralization?
- 17 A. That it's now a true guaranteed team, and that --
- 18 Q. Centralized is in quotes.
- 19 A. Right, because --
- 20 Q. Do you know why that's in quotes?
- 21 A. Because it wasn't truly centralized.
- 22 Q. Do you know why it wasn't, you know, according to -- and  
23 this is from the Agency -- you know, centralized, what was the  
24 -- they called it centralized, but it really wasn't. Do you  
25 know why?



Young

1 A. Because of their plan back in, I think it was 2013, where  
2 they were going to centralized guaranteed. It wasn't working,  
3 so they had to keep adding employees and so now it's being  
4 worked in the state in the field. Just -- it wasn't  
5 centralized.

6 Q. Did they also lose employees in the central office?

7 A. I believe so.

8 Q. So if you turn to the September 22nd letter that's  
9 attached, there's also some charts that are attached. Did that  
10 come with it?

11 A. Yes.

12 Q. What does the chart describe?

13 A. The work of the programs that will be worked by the teams  
14 and those that the area offices will be working.

15 Q. So some of them are going to be retaining -- this is to  
16 say some of the 502 duties will be retained in the area office?

17 A. Yes.

18 Q. In addition to the -- anything that had been filed prior  
19 to September 22nd, it stays with the area office even though  
20 technically it's a direct or guaranteed loan?

21 A. Yes.

22 Q. Okay, could you look at the last paragraph of that,  
23 please? At the first page?

24 A. Okay.

25 Q. Can you tell me what this is about?

Young

1 A. This is saying that the area offices would primarily focus  
2 on the multi-family housing complexes and the 504 home repair  
3 and improvement loan grant programs.

4 Q. Now, he doesn't mention the other programs that the area  
5 offices do. Does that mean that the area office weren't doing  
6 those programs?

7 A. No, it does not mean that.

8 Q. But so -- the multi-family housing program, is that part  
9 of the same overall umbrella program for the Agency?

10 A. Housing? Yes.

11 Q. Okay. Could you turn to General Counsel Exhibit number  
12 32, please. Can you tell me what this is?

13 A. It's an email from Jordison to all the employees.  
14 Attached is another question and answer on how to handle or  
15 assist customers and checks.

16 Q. Is this to answer to questions that are being raised by  
17 the centralization?

18 A. How to handle applicants.

19 Q. Okay. Now, if you take a look at the last two pages, it  
20 says 502 Direct Pipeline Q&A for Non-RHS.

21 A. Yes.

22 Q. What is RHS?

23 A. Rural Housing Service.

24 Q. So this is a Q&A that's unlike the other Q&A's we've  
25 already looked at which were for the people who were going to

Young

1 be on or applying for the team.

2 A. Yes.

3 Q. This is for saying, okay, now we have the team chosen;  
4 here's how you people who are not on the team should deal with  
5 this?

6 A. Yes.

7 Q. Okay. Could you take a look at General Counsel 35,  
8 please.

9 A. 34 or 35?

10 Q. No, 34.

11 A. Okay.

12 Q. There's an email that's dated February 13th on there, but  
13 I really want you to look at the one that's from Sylvia Maedgen  
14 dated February 12, 2015.

15 A. Yes.

16 Q. Can you tell me what that is?

17 A. It's an email that Sylvia sent to the Union saying that  
18 they had reconsidered and changed its response to the Union's  
19 demand to bargain, and that they had decided to negotiate.

20 Q. Now, the Union had -- the Agency -- after the Agency  
21 implemented the plan, did you ever get together again and  
22 negotiate?

23 A. No.

24 Q. Did you ever get together again to discuss the program at  
25 all?

Young

- 1 A. No.
- 2 Q. And was the unfair labor practice charge in this case was  
3 filed on December 4th?
- 4 A. Yes.
- 5 Q. Of 2014?
- 6 A. Yes.
- 7 Q. So this 2015 email to you saying, oh -- is after the ULP  
8 was filed?
- 9 A. Yes.
- 10 Q. Okay, and this email says what? The first paragraph.
- 11 A. That they're willing to bargain now.
- 12 Q. It says it's reconsidered and changed its response?
- 13 A. Yes.
- 14 Q. Saying it should have bargained?
- 15 A. Yes.
- 16 Q. Okay, so when you got this, you know, what did you do? I  
17 mean, did you call the Agency and, you know, plan a meeting to  
18 bargain or what did you do?
- 19 A. Well, I think the first thing I did was I sent it to Gary  
20 Martinez, who was now going on record as the chief negotiator.  
21 And I talked to the other union bargaining members.
- 22 Q. Did they suggest in the email some dates that you might  
23 want to meet in order to talk about this?
- 24 A. Yeah, they talked about that they wanted to complete the  
25 bargaining before the 18th.

Young

1 Q. Was it before the 18th or after the 18th?

2 A. Oh, between our labor forum meeting on the 18th and the  
3 end of the first week in March.

4 Q. And so did you guys get together and negotiate in March?

5 A. No. Well, I don't remember the date.

6 Q. Well, let me just point you to General Counsel Exhibit  
7 Number 35.

8 A. Okay.

9 Q. The email dated March 25, 2015.

10 A. Yes.

11 Q. Can you tell me what that is?

12 A. Where I'm asking them, over a month later, we haven't  
13 heard from you; I thought that you were going to -- that the  
14 Agency had decided to negotiate, but you haven't contacted us.

15 Q. And did they contact you after this?

16 A. Oh, and I'm also telling -- asking why they're posting  
17 positions for external applicants to apply for housing team  
18 positions to be on the team, when you just said we're going to  
19 negotiate the month before.

20 Q. And did they actually -- the way they filled the team was  
21 through volunteers; is that correct?

22 A. Yes.

23 Q. Did they have more volunteers than they had positions on  
24 the team?

25 A. Yes.

Young

1 Q. Did the Agency respond to this? I mean, this is --

2 A. No, that never happened.

3 Q. What's going on with the February 12th; you said you were  
4 going to bargain and they never got back to you again?

5 A. No.

6 MS. DYE: Okay, I don't have any further questions.

7 JUDGE CENTER: All right. Counsel, how long are you  
8 anticipating your cross-exam will take?

9 MR. MONTGOMERY: About a half an hour should be --

10 JUDGE CENTER: All right. I think we're going to go ahead  
11 and break for lunch now. Let's comeback at 1:30.

12 **(Whereupon, at 12:15 p.m., a lunch recess was taken.)**

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Young

1 A F T E R N O O N S E S S I O N

(Time Noted: 1:30 p.m.)

3 JUDGE CENTER: Ma'am, if you would, please, come on back  
4 up here, please. I will remind you that you're still under  
5 oath.

6 THE WITNESS: Okay.

7 JUDGE CENTER: And actually, before we start your cross-  
8 examination, did we get the exhibit cleared up?

9 MS. DYE: The V?

10 JUDGE CENTER: The V.

11 MS. DYE: Uh-huh. We did.

12 JUDGE CENTER: All right. Let's put it on the record that  
13 we did. Counsel, you provided a full copy of the first page of  
14 Exhibit V?

15 MR. MONTGOMERY: I did. It was a fuller and more complete  
16 version of the document that had been the original exhibit.  
17 And I believe the other side agreed that it was an appropriate  
18 substitution.

19 JUDGE CENTER: Counsel?

20 MS. DYE: Yes, I agree.

21 JUDGE CENTER: And so you withdraw your objection?

22 MS. DYE: I withdraw my objection.

23 JUDGE CENTER: To Respondent V?

24 MS. DYE: Uh-huh.

25 JUDGE CENTER: All right. Respondent V is admitted to the

Young

1 record.

2 **(Respondent's Exhibit V received into evidence.)**

3 JUDGE CENTER: Let's go ahead and start cross-examination.

4 MR. MONTGOMERY: Very good, Your Honor.

5 **CROSS-EXAMINATION**

6 Q. BY MR. MONTGOMERY: Good afternoon, Ms. Young.

7 A. Good afternoon.

8 Q. I'd like to ask you just a -- just general questions about  
9 the Union chapter of which you are an official. You are the  
10 vice president, I believe you're called?

11 A. The acting vice president, yes.

12 Q. Okay. And that you're the vice president, does that imply  
13 that somebody somewhere is the president?

14 A. Yes.

15 Q. Who is that?

16 A. Shea Lawrence. And she -- our contract is for FSA and RD.  
17 And she's in FSA.

18 Q. She is what -- what is she the president of?

19 A. AFGE Local 571.

20 Q. Okay. And Local 571, in Texas -- at about the time that  
21 we were talking about, when the centralization plan came out,  
22 how many dues paying members did you have?

23 MS. DYE: Your Honor, I don't know how that's relevant.

24 THE WITNESS: I don't know the answer anyway.

25 JUDGE CENTER: Counsel, any response to the relevance?



Young

1           MR. MONTGOMERY: Well, part of our case -- part of our  
2 argument is going to be that the -- Ms. Young's actions have  
3 been to a greater or lesser extent based on her own interests,  
4 rather than based on the interests of the membership or of  
5 bargaining unit eligible employees throughout the state of  
6 Texas. In fact, the evidence is going to show that this union  
7 local is really pretty much a one man or, should I say, a one  
8 woman show, that she is -- it's her, doing what she wants.  
9 There is no broad-based dues-paying membership of people who  
10 are conferring with her from day to day or from time to time  
11 about how the Union ought to be doing business.

12           JUDGE CENTER: I'm going to overrule the objection and  
13 allow the question. Proceed.

14           THE WITNESS: Okay. I don't know how many bargaining unit  
15 employees -- is that the question?

16 Q.   BY MR. MONTGOMERY: Well, let's start with a broader  
17 question. How many people are there in the State of Texas  
18 working for Rural Development who are eligible to be members of  
19 this union local?

20 A.   I don't know. 100 and something. That's all I can say.

21 Q.   Well, that's what I think too. So, I don't know the exact  
22 number, but it is more than 100, right?

23 A.   I believe so.

24 Q.   How many actually are members?

25 A.   I don't know that either because we represent all the

Young

1 bargaining unit, not just dues-paying members. And really,  
2 dues-paying members are no different to me than any bargaining  
3 unit employee.

4 Q. Well, that is as it may be. But don't you know how many  
5 members you have at any one time who are active dues-paying  
6 members of the Local?

7 A. No, sir.

8 Q. Okay.

9 A. I don't pay any attention to any of that.

10 Q. It could be 5, it could be 50, and you wouldn't know?

11 A. I don't know.

12 Q. Okay. Who actually collects the money for the dues that  
13 you collect?

14 A. Shea. The president.

15 Q. And he works for Farm Services, you said?

16 A. He's a she. And yes.

17 Q. Where is he located?

18 A. She was in Bryan, but now she moved to -- I don't know.

19 You know, I just got to Texas in 2011, so I'm not real sure of  
20 all the towns. But I know she moved closer to Georgetown or  
21 she moved to Georgetown. But she's still with FSA.

22 Q. Do you ever have any such thing around here as a  
23 membership drive where you try to get people to sign up?

24 A. No, we have not.

25 Q. Not since you've been here, or --

Young

- 1 A. Not since I've been in the --
- 2 Q. Which is just the past several years, though?
- 3 A. Two years, yes.
- 4 Q. You've been working for Rural Development for quite a lot
- 5 longer than that. Right?
- 6 A. Yes, sir.
- 7 Q. Before you became active in the Union as you are now, did
- 8 you ever have people trying to, so to speak, recruit you to
- 9 join and pay dues?
- 10 A. Yes. All of our union employees have gotten emails from
- 11 the previous president to join the Union.
- 12 Q. So the previous union president was active in trying to
- 13 get people to join?
- 14 A. I remember one email. Well, like I said, I've only been
- 15 here since 2011. And I just joined the Union in 2013.
- 16 Q. Well, since 2011 is plenty of time for you to try to get
- 17 your fellow Rural Development employees to join up; isn't it?
- 18 A. Well, I just joined in 2013.
- 19 Q. Let me just ask you one more question about that. Apart
- 20 from yourself and the two other witnesses for the General
- 21 Counsel, can you tell me any other Rural Development employees
- 22 who were dues-paying members at that time?
- 23 A. At what time?
- 24 Q. The time we're talking about, in 2013, when the
- 25 centralization plan came out.

Young

- 1 A. I would be guessing. I know a girl named Terri was a  
2 member, and -- honestly, sir, I don't know. I mean, our  
3 membership is also FSA employees. I honestly don't know.
- 4 Q. Now, you talked about changes in your duties after  
5 centralization took place, which -- as between single family  
6 homes and multi-family homes. Is that correct?
- 7 A. Yes, sir.
- 8 Q. You used to primarily do single family housing?
- 9 A. Yes, sir.
- 10 Q. Now you're doing more multi-family housing?
- 11 A. Yes.
- 12 Q. That's a good thing for you personally; is it not?
- 13 A. Good as in --
- 14 Q. Right?
- 15 A. Maybe promotion potential.
- 16 Q. Well, that's just what I was about to say. Single family  
17 housing is the least complex program we have, generally.
- 18 A. True.
- 19 Q. Multi-family is more --
- 20 A. Yes.
- 21 Q. -- complex. Correct? Isn't it a good thing for an  
22 employee to get more experience in a more complex program?
- 23 A. Well, in my situation I've been with the Agency 31 years.  
24 I believe in the housing program. I don't know how much detail  
25 you want me to go into, but I can tell you this: I came from a

Young

1 very poor family. I like helping the very low and low income  
2 people. I enjoy it. I thrive on it. I know it. I'm an  
3 expert in the housing.

4 Multi-family, I've had no training. I don't feel that I'm  
5 doing my community thing as much as I am with paid housing  
6 loans, where you're helping an elderly veteran repair his loan  
7 or get -- right before centralization, I helped a Vietnam  
8 veteran that has never owned a home get a home on his little  
9 income, and that man was so grateful and thankful. And that is  
10 why I believe in our program.

11 So, financially, yeah, you know, multi-family would be  
12 better for me. But mentally and just the person that I am, I  
13 enjoy helping people.

14 MR. MONTGOMERY: All right. Does the witness still have a  
15 copy of the exhibits up there?

16 THE WITNESS: Thank you.

17 MR. MONTGOMERY: Is that yours or ours or both?

18 MS. DYE: Oh, that's just mine. Did you bring the copies  
19 for the witness to use?

20 MR. MONTGOMERY: Yes. But once we get past what was yours  
21 that we're talking about, we may get into some of the ones that  
22 are designated as Agency exhibits. If it's necessary, I'll get  
23 them.

24 Q. BY MR. MONTGOMERY: Ms. Young, will you take another look  
25 at what's marked, I believe, as General Counsel Exhibit --

Young

1 A. Okay.

2 Q. Part of this, of course, is your letter to the state  
3 director dated July 15, 2014, where you set out 10 proposals.  
4 Can you look at that one for me?

5 A. Sure. Okay.

6 Q. You see up here at the top of your header, Local 571,  
7 begins "All appropriate bargaining." Right?

8 A. Yes.

9 Q. Isn't it true that that bargaining took place on August 1  
10 of 2014?

11 A. No.

12 Q. All right. What do you say took place on August 1, 2014?

13 A. Well, during that meeting, Silvia kept saying that we were  
14 not there to negotiate. They were there to listen to legal  
15 concerns. And I kept saying the Union was there to negotiate.  
16 And this went on several times. It was more of a discussion of  
17 the plan and the Union's concerns with the plan. And it wasn't  
18 any bargaining. None.

19 Q. Now, Ms. Young, if you were discussing the plan and  
20 discussing the Union's concerns about the plan and talking  
21 about what the Union wanted, how is that any different than  
22 bargaining?

23 A. Well, because you can discuss something; that doesn't mean  
24 you're negotiating. And to say, well, you know, for example,  
25 you know, we're concerned about employees' hours, tour of duty,

Young

1 and management saying, well, we understand that, and, yeah,  
2 there could be somebody that their tour of duty gets changed.  
3 And the Union saying, well, that's part of the problem and  
4 that's what we need to negotiate. And them saying no, this is  
5 the way it's going to go. That's not negotiating.

6 Q. Well, if you have presented your position and the other  
7 side says we've made our decision, doesn't that mean  
8 negotiations have come to an end as to that point?

9 A. No. Because we never negotiated. We just -- with them  
10 saying this is the way it is and us saying, well, that's what  
11 needs to be negotiated. We never bargained anything.

12 JUDGE CENTER: Counsel, is it truly the Respondent's  
13 position that basically saying no is good faith bargaining?

14 MR. MONTGOMERY: No. Judge, our position is that inviting  
15 the other side in to put their case and for us to say that --

16 JUDGE CENTER: No.

17 MR. MONTGOMERY: -- well --

18 JUDGE CENTER: That's good faith bargaining? That's your  
19 contention?

20 MR. MONTGOMERY: Our contention is that what took place on  
21 August 1 and leading up to it was as much bargaining as there  
22 possibly could have been because --

23 JUDGE CENTER: Well, certainly it proved it was as much  
24 bargaining as you were going to do.

25 MR. MONTGOMERY: Well, I'm going to --

Young

1 JUDGE CENTER: I think we can both agree that there could  
2 have been more done.

3 MR. MONTGOMERY: Well --

4 JUDGE CENTER: All right, Counsel, proceed. I just want  
5 to make sure I understand what the Respondent's case is here.

6 MR. MONTGOMERY: I take your point.

7 Q. BY MR. MONTGOMERY: Let's go over your 10 points that you  
8 have here, Ms. Young. The first one is that you didn't want  
9 anything to happen that would diminish or waive any rights  
10 bargaining unit employees have already. Do you see that?

11 A. Yes.

12 Q. Management didn't disagree with that, did they?

13 A. Not that I remember.

14 Q. Well, they never tried to take away anybody rights in the  
15 manner that you're speaking about there, did they?

16 A. They did it when they implemented the plan. They took  
17 away the Union's rights and the employees' rights. So, they  
18 never --

19 Q. Well, what it says here, rights under the AFGE agreement,  
20 rules and regulations.

21 A. Yes.

22 Q. That is talking about the Union's right to be heard, to be  
23 represented in bargaining, I think. Do you disagree?

24 A. Well, what I was saying there is that this proposal --  
25 we're not waiving rights. This is our preliminary proposal.



Young

1 Q. Point number 2 is for the Agency and Union to do a joint  
2 study. Right?

3 A. Yes.

4 Q. Did you ever present management with any material at all  
5 about this study you had in mind, other than writing it down  
6 here?

7 A. Well, no, because I didn't get any of the information I  
8 requested, so I really couldn't.

9 Q. Well, let me try another way. Don't you think management  
10 would be interested in such things as, if we're going to do a  
11 study, who is going to conduct it, how much will it cost, how  
12 long will it take -- things like that?

13 A. I would think so.

14 Q. Well, you never suggested any of that to management, did  
15 you?

16 A. They just said no. That's a management right and they're  
17 not going to do a job study. We never discussed it. They just  
18 put it in writing.

19 Q. You didn't give them much to consider, though. Did you?

20 A. I needed information in order to give them anything, and I  
21 didn't have any of it. I just had the plan.

22 Q. All right. And then point number 3, no position will be  
23 removed from the bargaining unit.

24 A. Uh-huh.

25 Q. Did management disagree with you about that one?

Young

- 1 A. No.
- 2 Q. And in fact, no positions ever were removed, were they?
- 3 A. I don't think so.
- 4 Q. New positions were added on to be able to carry out the
- 5 centralization. That's true, isn't it?
- 6 A. Yeah, they did end up having to amend their own plan.
- 7 Q. New hires were brought in from the outside world.
- 8 A. Yes, sir.
- 9 Q. More potential members for your union, then; wouldn't you
- 10 say?
- 11 A. Well, the FTEs are already there. So it didn't change the
- 12 number of BUEs.
- 13 Q. But it was more bodies in the state, isn't it? More
- 14 actual employees.
- 15 A. More physical people there, yes.
- 16 Q. Number 4, lead compliance and team lead positions will be
- 17 filled on a competitive basis. Management didn't disagree
- 18 about that, did they?
- 19 A. Well, I don't remember what their response was to that.
- 20 But they didn't do it.
- 21 Q. What didn't they do?
- 22 A. They have, it appears, renamed some of the positions and
- 23 made them leads, which they weren't leads prior to that. So
- 24 they didn't disagree with that, but they didn't fill them on a
- 25 competitive basis.

Young

1 Q. Did they do something different from the way you wanted?

2 A. Well, they didn't follow the merit promotion rules on  
3 that, or the collective bargaining agreement or our MLA. They  
4 just did it.

5 Q. You say that positions were filled in a way that violated  
6 merit selection principles?

7 A. Well, it appears that way. Because now some of the  
8 positions have different titles. And they're called leads and  
9 workflows, which we didn't have them before. So, therefore,  
10 that is a different position and it should have been based on a  
11 competitive basis.

12 Q. So you say there's something unlawful about changing the  
13 name of the position?

14 A. Well, the Union wasn't notified. It wasn't negotiated or  
15 -- I mean, is it a new position?

16 Q. Well, you tell me. Because I --

17 A. I don't know. Because they haven't --

18 Q. This is the first I've heard of it.

19 A. Well, I just know from the, you know, like different  
20 correspondence and that where they talk about workflows and  
21 team leads, which we didn't have those positions prior to the  
22 centralization.

23 Q. Ms. Young, I'm having a lot of trouble following you --

24 A. I'm sorry.

25 Q. -- here, because this is the first I've ever heard of it.

Young

1 I do not know which positions had their titles changed, if that  
2 happened at all. I don't know how things are different from  
3 what they were before. If you say something's been done that  
4 was wrong, I've got to tell you that there's no evidence of it  
5 in the record previous to you saying so today. So, I'll have  
6 to pass --

7 JUDGE CENTER: Counsel, that's enough. Ask a question.

8 Q. BY MR. MONTGOMERY: Let's move on to your point number 5  
9 here, where you're talking about how employees will be selected  
10 for various assignments. Do you see that?

11 A. I do.

12 Q. And you see that if there are more candidates than there  
13 are positions amongst employees working in single family  
14 housing, employees with the greatest seniority based on time as  
15 a Rural Development employee should be given the reassignment.  
16 Correct?

17 A. Yes.

18 Q. But what was management's view of that suggestion?

19 A. Jordison said that she did not agree with seniority  
20 because if employees were assigned based on seniority, she  
21 would not be the housing program director because she hadn't  
22 been with the Agency that long, and they didn't agree with it.

23 Q. According to you, who said that?

24 A. Theresa Jordison, the housing program director.

25 Q. Is it fair to say that management wasn't willing to adopt

Young

1 a seniority system?

2 A. They weren't related to -- well, you know, there's three  
3 parts to this: That they would be volunteers; that the  
4 employees that were at that time working primarily on housing  
5 -- that if there were more volunteers than there were positions  
6 on this, that the employees that were already trained and  
7 experts on housing would be selected; and if there were still  
8 more volunteers than positions, then go by seniority.

9 Q. I do see that that's what you're proposing.

10 A. So, they didn't -- what I'm trying to say, if you're  
11 asking -- they didn't take into consideration the employees who  
12 were already primarily working on the direct, especially on the  
13 housing. And then they didn't go by seniority.

14 Q. You believe it would have been legal to make selections  
15 based on seniority?

16 A. Yes.

17 Q. As opposed to merit?

18 A. Well, these were reassignments. These were different than  
19 the positions that were changed to leads. So, there wasn't a  
20 change as far as the position. It wouldn't have been a merit  
21 promotion selection criteria.

22 Q. All right. Let's move on to point number 6. Current  
23 vacant FTEs will be assigned to area offices that will be  
24 negatively impacted by the assigning of employees. What was  
25 management's position about that?

Young

1 A. They weren't willing to do that.

2 Q. They said they won't do it?

3 A. Right.

4 Q. Number 7, shall be no adverse impact to a bargaining unit  
5 employee's alternative work schedule. Can you tell me why that  
6 was --

7 A. Well, because it's an employee's condition of employment.  
8 It's one of the few that employees have benefits, that the  
9 employees have alternative work schedules. We have alternative  
10 work schedules. A family friendly Agency atmosphere is, you  
11 know, what the purpose is of alternative work schedules. For  
12 people like myself that have children in school, you want to go  
13 to plays; you want to do whatever. Or, even if babysitting  
14 issues or whatever. So we didn't want the employees to be  
15 affected or have a negative impact because their lives were  
16 already, you know, scheduled.

17 Q. Well, all right. So your conception of the way things  
18 ought to have been done is that centralization shouldn't change  
19 the alternative work schedule of anybody who already has one.  
20 Is that fair to say?

21 A. I'm saying that it at least should have been negotiated.

22 Q. But what you were hoping to achieve through negotiation is  
23 what I just said. Anybody who already had an alternative work  
24 schedule would get to keep it. That's what you wanted. Right?

25 A. I was shooting for the moon. Get everybody what they

Young

1 need, or, you know, what they have. You don't want to take  
2 away from your employees.

3 Q. Right. And point number eight is telework agreement.

4 A. Yes.

5 Q. That's similar, in that what you were asking for was that  
6 nobody who would have a telework agreement would lose it. Fair  
7 to say?

8 A. Yes, sir.

9 Q. Point 9 is, I believe, more of the same. Going back to  
10 tours of duty, so what you were asking for is anybody who  
11 already had an established tour of duty wouldn't have to change  
12 their hours, correct?

13 A. Correct.

14 Q. Okay. Do you believe that the centralization plan could  
15 ever possibly have been carried out under those circumstances,  
16 with nobody ever changing their work schedule or their telework  
17 or their hours?

18 A. Yes, sir.

19 Q. You really believe that?

20 A. Yes, sir.

21 Q. And point number 10, of course will remain status quo  
22 until bargaining is completed by the Union. You see where it  
23 says that?

24 A. Yes, sir.

25 Q. Can you tell me what your definition is of bargaining is

Young

1 completed by the Union?

2 A. Honestly, I took it really off an example that I found.  
3 And what I thought it to mean was that nothing changes until  
4 we've completed our negotiations.

5 Q. All right. Who gets to decide when the negotiation is  
6 completed?

7 A. Well, you know, hopefully it would be when the Union and  
8 management agree -- come to an agreement, and the bargaining  
9 unit ratified it. That would be when it's completed.

10 Q. With the bargaining unit, you say, ratified?

11 A. Uh-huh.

12 Q. Ratified what?

13 A. The negotiation. The agreement that -- you know, if it  
14 would have happened, what union and management agreed to -- the  
15 Union has to take it to the bargaining unit employees and be  
16 able to ratification by the bargaining unit.

17 Q. IF there is such an agreement in the first place. Right?

18 A. Right. That's why I said if we came to an agreement.

19 Q. Well, isn't it fair to say, Ms. Young, that what you're  
20 asking for in your point number 10 here is a blank check to  
21 hold up the centralization plan through demands you make by  
22 refusing to ever come to an agreement?

23 A. No, that's not true.

24 Q. What stops you from doing that?

25 A. What stops me from doing --



Young

1 Q. What stops you from saying to management, well, we want to  
2 negotiate some more so we can't have your plan put in, and say  
3 that again and again for however long --

4 A. I'm confused. What stops me -- I'm confused on what  
5 you're asking me.

6 MR. MONTGOMERY: All right.

7 JUDGE CENTER: Counsel, maybe the better question is does  
8 the Respondent understand how to deal with that. Like the  
9 clearing impasse and telling, you know, a party to go to  
10 impasse.

11 MR. MONTGOMERY: Well, that is another -- well, that could  
12 be pursued. But I don't know if you have noticed it, by  
13 looking at the record of the exhibits in this case, Judge --  
14 but in fact it never happened in this case that anybody on  
15 either side ever attempted to declare an impasse or suggested  
16 going to the --

17 JUDGE CENTER: It appears to me from the record nobody  
18 ever even tried to negotiate. But proceed.

19 Q. BY MR. MONTGOMERY: All right. Well, okay, that's enough  
20 questioning about the mention of the 10 points.

21 Isn't it true, Ms. Young, that in the August 1 negotiation  
22 session that all of these points were resolved to the extent  
23 that they ever could be?

24 A. No.

25 Q. What do you think would have been accomplished by

Young

1 scheduling some other negotiation session at some future time.

2 A. We never really negotiated. But I would hope -- I was  
3 hoping that we would have come to a mutual agreement on all of  
4 it. But we didn't. We were just shut down.

5 Q. Well, Ms. Young, by this time you had a copy of the  
6 proposed plan in your hands. And shortly after that, you got a  
7 copy of the centralization plan as it was actually going to be  
8 implemented. Right?

9 A. Yes, sir.

10 Q. Once you got that, did you ever get back to management  
11 with your suggestions about what was wrong with the plan? How  
12 it might be improved or anything like that.

13 A. After when?

14 Q. Well, early August was when the state director announced  
15 that the centralization plan was going to be put into effect.  
16 Right?

17 A. Yes.

18 Q. And you have a copy of that.

19 A. Of the plan? Yes.

20 Q. Okay. Wasn't that your chance to go over the plan point  
21 by point with the red tipped pen and mark up the points you  
22 didn't like and get back to management with your objections to  
23 it?

24 A. Well, not objections. I wanted to negotiate. The Union  
25 wanted to negotiate. We never had the opportunity.

Young

1 Q. Will you now look at what's marked as General Counsel  
2 Exhibit 16?

3 A. Okay.

4 Q. And numbered page 6 at the top. It's part of  
5 Mr. Valentin's letter.

6 A. Okay.

7 Q. Just above the signature of that paragraph there, it says,  
8 "We would like to set a date to bargain over our proposals by  
9 August 1, 2014." Do you see where it says that?

10 A. Yes, sir.

11 Q. And you actually did meet with management on August 1,  
12 2014.

13 A. Yes, sir.

14 Q. Well, he asked you to bargain and you did. Isn't that  
15 true?

16 A. No, sir. If you read his letter -- this same letter, I  
17 believe, is where he said that they were willing to meet with  
18 the Union on a nonbinding time or agreement.

19 Q. Okay. If you want to point to the part of the letter  
20 you're talking about, please feel free to do that.

21 A. Okay. I'll look at it. Just a second.

22 MS. DYE: Your Honor, can I say something?

23 JUDGE CENTER: Please do. If you can help us out. These  
24 are your exhibits.

25 MS. DYE: Yes. This is the July 25th response to the

Young

1 thing. The information request.

2 JUDGE CENTER: Please, what exhibit are you referring to?

3 MS. DYE: Oh, I'm sorry. The General Counsel Exhibit 16,  
4 the first letter that he is talking about. That's the  
5 information request. The next letter is the one that is the  
6 Response to the request to bargain. So, I just wanted to make  
7 sure we were looking at the right letter.

8 THE WITNESS: I think what I'm talking about is actually  
9 in that third letter, and it was, not to my memory, anyway --  
10 oh, this --

11 MS. DYE: General Counsel 19.

12 THE WITNESS: Oh, it's in the next letter.

13 JUDGE CENTER: The next letter, you say?

14 THE WITNESS: Yes.

15 JUDGE CENTER: And what exhibit is that?

16 THE WITNESS: 19.

17 JUDGE CENTER: And what is said in that document?

18 THE WITNESS: That "We are willing to give to you one last  
19 nonbinding time to meet."

20 Q. BY MR. MONTGOMERY: Well, we can talk about that one.

21 A. Okay.

22 Q. But the fact is, Ms. Young, Mr. Valentin sent you a letter  
23 specifically inviting you to set a date to bargain. It  
24 mentioned a specific date of August 1, 2014. And in fact, you  
25 showed up to meet with his representatives on August 1, 2014.

Young

1 Correct?

2 A. Yes.

3 Q. Well, and you don't think that that was, on your part, an  
4 acceptance of his invitation to meet and bargain?

5 A. Well, between this letter --

6 Q. Yes or no, to my question.

7 A. No.

8 MR. MONTGOMERY: Okay. Well, if that's what you say then.

9 JUDGE CENTER: Counsel, refrain from commentary.

10 Q. BY MR. MONTGOMERY: Okay. This is your point, ma'am. I'd  
11 like to direct your attention to what was marked as General  
12 Counsel Exhibit 25A.

13 A. Okay.

14 Q. All right. And this is a memo from you dated August 5, to  
15 the state director. Correct?

16 A. Yes, sir.

17 Q. At the top it says, "The Agency and the Union are  
18 currently in negotiations regarding management's proposed  
19 changes." Right?

20 A. True.

21 Q. Isn't that an acknowledgement on your part that  
22 negotiation and bargaining took place on August 1?

23 A. No, sir.

24 Q. Well, if we're currently in negotiations those  
25 negotiations had to have started some time, right?

Young

- 1 A. No. Well --
- 2 Q. Really?
- 3 A. I mean, by mail, you know. I'm asking for them. They
- 4 haven't -- we haven't negotiated anything.
- 5 Q. Ms. Young, you use the present tense there.
- 6 A. Right.
- 7 Q. Are currently in negotiations.
- 8 A. I'm still hoping that we will enter into negotiations.
- 9 Q. Well, but you are acknowledging that they have already
- 10 begun. Right?
- 11 A. No. I guess you could read that, but no.
- 12 Q. Then your next sentence is that "The Agency implements the
- 13 changes before completing bargaining." Right?
- 14 A. Where do you read that? I missed --
- 15 Q. Same paragraph.
- 16 A. Okay.
- 17 Q. The next sentence. "The Agency implements the changes
- 18 before completing bargaining."
- 19 A. Yes, sir.
- 20 Q. Right?
- 21 A. Yes, sir.
- 22 Q. Well, if the question is whether or not bargaining is
- 23 going to be completed that means it's started already. Right?
- 24 A. Not necessarily. I'm saying if bargaining doesn't happen
- 25 -- if it's not completed -- then the Union will file an ULP.

Young

1 MR. MONTGOMERY: Judge, I'm now getting the point where  
2 we've gone through the exhibits that were from the other side  
3 and we're coming to ones that are our own. So, I need to give  
4 the witness --

5 JUDGE CENTER: Please proceed.

6 MR. MONTGOMERY: -- a copy of the -- our exhibits.

7 JUDGE CENTER: Counsel, you have a set of these documents?

8 MS. DYE: Yes. I do.

9 JUDGE CENTER: All right.

10 Q. BY MR. MONTGOMERY: This should be marked Respondent's  
11 Exhibit Q-1, or something like that. Do you see it, Ms. Young?

12 A. Yes, sir.

13 Q. Yeah. Thanks. At the bottom of this page, there is from  
14 you to Sylvia Maedgen dated August 18, where you're saying that  
15 you want to apply to be one of the volunteers for reassignment.  
16 Right?

17 A. Yes, sir.

18 Q. And her response, which is the same day, is we'll give you  
19 an extension of time so you can do that, right?

20 A. Yes.

21 Q. Now, you knew that sometime later you were turned down for  
22 that, right?

23 A. Yes, sir.

24 Q. How much later was it that you found out you weren't going  
25 to get the reassignment?

Young

1 A. I don't know the exact date.

2 Q. If you look at Agency Exhibit M -- you filed a grievance  
3 about this dated September 19th, 2014, right?

4 A. M?

5 Q. Yes.

6 A. Is it R-M-1, or --

7 MR. MONTGOMERY: Yeah, yeah. R, for Respondent, M and  
8 possibly the page number after that.

9 MS. DYE: But not 1. You're looking -- there's an R-M-1  
10 that has no 1. There's an R-M --

11 THE WITNESS: Without a 1.

12 MS. DYE: -- that has no 1.

13 THE WITNESS: Okay.

14 Q. BY MR. MONTGOMERY: Right. I've got the wrong -- R-M.

15 A. I see it.

16 Q. Yeah. So, you submitted a grievance about non-selection  
17 for the assignment. And that was dated September 19, 2014.  
18 Right?

19 A. Yes. Yes.

20 Q. I want you to look at Exhibit M-1, which we just talked  
21 about.

22 A. Okay.

23 Q. That's dated October 21, and it's a letter from you to the  
24 director, right?

25 A. Yes, sir.



Young

1 Q. And it's a demand for bargaining, correct?

2 A. Yes.

3 Q. Well, at some point beyond that you ended up filing an  
4 allegation of unfair labor practice, right?

5 A. Yes, sir.

6 Q. All this happened after you personally didn't get what you  
7 wanted, in being allowed to get one of the -- whatever they  
8 were calling reassignments in the organization. That's true,  
9 isn't it?

10 A. These all happened after that, but the demand for  
11 bargaining was -- I didn't have my tour of duty changed. This  
12 was for other bargaining unit employees that did have their  
13 tour of duty changed.

14 Q. Well, actually, Ms. Young, isn't it true that the reason  
15 we're all here today for this hearing is that you didn't get  
16 selected for reassignment to one of those centralization teams,  
17 as you wished? If you'd gotten that, this unfair labor  
18 practice allegation never would have happened. That is true?

19 A. That is not true.

20 MR. MONTGOMERY: Those are all the questions I have,  
21 Judge.

22 JUDGE CENTER: Okay. Ma'am, I've got a couple questions  
23 for you.

24 THE WITNESS: Okay.

25 JUDGE CENTER: All right. You prepared a list of

Young

1 proposals after you got notice that they were going to  
2 implement this change. Is that correct?

3 THE WITNESS: Yes, sir.

4 JUDGE CENTER: And in response to those proposals that you  
5 submitted to management, did management ever give you any  
6 counter proposals?

7 THE WITNESS: No. They just sent my proposals back and  
8 said no.

9 JUDGE CENTER: In the course of discussing this, you  
10 received a letter that told you, basically, we'll discuss it  
11 but it's a nonbinding discussion.

12 THE WITNESS: Yes, sir.

13 JUDGE CENTER: At any point during these discussions, did  
14 management tell you that you were at impasse on any of the  
15 proposals you had made?

16 THE WITNESS: No, sir.

17 JUDGE CENTER: Counsel, you have any redirect?

18 MS. DYE: I do not.

19 JUDGE CENTER: Counsel, do you have any recross?

20 MR. MONTGOMERY: Nothing for the Agency.

21 JUDGE CENTER: Subject to recall?

22 MS. DYE: No.

23 JUDGE CENTER: Thank you very much for your testimony.  
24 You're free to --

25 THE WITNESS: Can I --

Young

1 JUDGE CENTER: -- you're free to leave.

2 MS. DYE: Yeah. Don't --

3 THE WITNESS: Do I give you this binder back?

4 MR. MONTGOMERY: If you would leave it there for the next  
5 witness, in case somebody --

6 JUDGE CENTER: You can just put it right here.

7 THE WITNESS: Okay.

8 **(Witness excused.)**

9 MR. MONTGOMERY: Judge, I think that the testimony that  
10 has been taken so far somewhat resolves the issues that we  
11 should be addressing in this case. It is the Agency's  
12 position, as regards the question of bargaining or failing to  
13 bargain, that bargaining was invited. That invitation to  
14 bargain was issued by the Agency by the letter sent by the  
15 state director and by other means which are in the record.  
16 This invitation to bargain was accepted and taken out by the  
17 Union, and that the bargaining session did in fact take place  
18 August 1, 2013 [sic]. It was a short, sharp and brief  
19 bargaining session that resolved everything that could have  
20 been resolved and that led to impasse, and left no possibility  
21 for further bargaining to take place because there was nothing  
22 left to talk about.

23 It was quite clear that the two sides had said everything  
24 they had to say and that they were not going to agree. And  
25 that for management to wait any longer would simply have

Young

1 delayed the implementation of a plan that was going to be  
2 implemented and needed to be implemented, and that any efforts  
3 to try to bargain further beyond that point would have been a  
4 charade and would have accomplished nothing.

5 I agree the whole business could have taken a lot longer  
6 than it did, and, you know, I'm sure there are some people who  
7 would have done it differently. Our view is that labor laws do  
8 not exist for the purpose of causing either side, either the  
9 Union or management, to engage in playacting and shamming the  
10 procedure of bargaining and negotiating beyond the point where  
11 it is clear that nothing more can be accomplished beyond what  
12 already has been. And the evidence we are going to put forward  
13 in this case will show that that point was reached on August 1,  
14 and that there was nothing to be gained by scheduling any  
15 negotiating sessions or bargaining sessions for any date later  
16 than that.

17 The other issue that I think is going to be brought into  
18 this case that needs to be by the evidence, and will be  
19 addressed by the evidence, is the question of what the  
20 consequences have been -- what the outcome has been of the  
21 actual implementation of the centralization plan. The other  
22 side has produced witnesses who said that this plan has harmed  
23 the way Rural Development does business. That the loan system  
24 isn't working better that it used to -- that it's working worse  
25 than it used to. Well, I can understand why their witnesses

Young

1 have said that. They pretty well had to say that. They  
2 couldn't very well come in here and say yeah, this plan has  
3 done nothing but good for the state of Texas and it's people  
4 but we still don't like it. They couldn't really come in here  
5 and say that.

6 JUDGE CENTER: Counsel, this your opening statement not  
7 your closing argument.

8 MR. MONTGOMERY: All right.

9 MS. DYE: I'm willing to stipulate. I mean, I can tell  
10 you I'm not going to be making an argument that it wasn't good.  
11 That the results of the program had anything to do with the  
12 bargaining. You know, the centralization may have improved the  
13 number of things you get out of whatever. I'm not saying that  
14 -- they responded to questions that you asked, so I didn't ask  
15 any questions related to that. I can tell you, I'm not going  
16 to --

17 MR. MONTGOMERY: Well, that -- all right.

18 JUDGE CENTER: Counsel, just tell me what your case is  
19 about. Don't --

20 MR. MONTGOMERY: Sure. Well, notwithstanding that I  
21 believe that no violation on the part of management should be  
22 found, I still owe it to my client to argue what the remedy  
23 should be, in case you end up thinking otherwise. And that  
24 brings us to the question of status quo. And the case law is  
25 very clear that whether or not we go to SQA is based on -- in

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1 the case of government agencies that have revised their method  
2 of doing business, the case law is quite clear -- there are  
3 several examples -- that what you look at is the effect on the  
4 public good that would take place if you went back to the old  
5 way of doing things. And in one of the leadings case, the FAA  
6 was allowed to keep its revised plan of air traffic control  
7 even though they were found to have implemented it illegally.  
8 Because it was just too important to allow them to continue  
9 following their method of stopping airlines from crashing into  
10 each other.

11 I don't say that Rural Development does anything as  
12 similarly a matter of life and death, but the truth is -- and  
13 our witnesses are going to show you this, chapter and verse --  
14 that the implementation of the centralization plan has made  
15 things work better. And we are serving the people of the state  
16 better. Whatever else comes out of this case, I hope you will  
17 acknowledge that at least that much is true. And our witnesses  
18 will address that point when we get to them. That's all I have  
19 for the moment, Judge.

20 JUDGE CENTER: All right. I want to make sure I  
21 understand your position. It's -- early on, when we were  
22 reading documents, it appeared to me that the Respondent was  
23 making the point that the Union had either waived or acquiesced  
24 in the change that was made. Is it my understanding now that  
25 you're no longer making that argument? That your argument now

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1 is in fact that bargaining occurred and no agreement was  
2 reached?

3 MR. MONTGOMERY: Well, Your Honor, I would prefer to  
4 abandon that argument, Judge.

5 JUDGE CENTER: You're going to abandon --

6 MR. MONTGOMERY: On waiver and acquiescence, yes.

7 JUDGE CENTER: All right. So it's your position now that  
8 the August 1st meeting constituted good faith bargaining, no  
9 agreement was reached, and it was all done?

10 MR. MONTGOMERY: That is our position.

11 JUDGE CENTER: All right. Call your first witness.

12 MR. MONTGOMERY: All right. Sylvia Maedgen.

13 JUDGE CENTER: Actually, let's just go ahead and take a  
14 five minute break.

15 **(Off the record.)**

16 JUDGE CENTER: Counsel, please call your first witness.

17 MR. MONTGOMERY: Okay. Sylvia Maedgen.

18 JUDGE CENTER: Ma'am, if you could please stand up and  
19 raise your right hand?

20 (Whereupon,

21 **SYLVIA MAEDGEN**

22 was called as a witness by and on behalf of the Agency and,  
23 after having been first duly sworn, was examined and testified  
24 as follows:)

25 JUDGE CENTER: Please be seated. Please state your name.

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1 THE WITNESS: Sylvia Maedgen.

2 JUDGE CENTER: And please spell that for the court  
3 reporter.

4 THE WITNESS: S-y-l-v-i-a. M-a-e-d-g-e-n.

5 JUDGE CENTER: Would counsel proceed?

6 MR. MONTGOMERY: All right.

7 **DIRECT EXAMINATION**

8 Q. BY MR. MONTGOMERY: Good afternoon, Ms. Maedgen. Can you  
9 tell us how you are employed today, if you are?

10 A. I am currently retired.

11 Q. But you used to work for USDA Rural Development. Is that  
12 correct?

13 A. Yes. I retired from Rural Development on March the 31st  
14 of this year.

15 Q. Okay. And for several years before that, can you tell us  
16 what your position was here at Rural Development?

17 A. I was the administrative program director for 10 years.  
18 And then prior to that I was with the Agency a total of 31  
19 years, in HR.

20 Q. In your position as administrative program director, did  
21 you have occasion to deal with the Union local that's involved  
22 in this case?

23 A. Yes, sir, I did.

24 Q. All right. Did you have any involvement in the  
25 implementation of what we are calling the centralization plan?



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- 1 A. Yes.
- 2 Q. All right. Do you remember when the plan first came into  
3 existence?
- 4 A. Are you referencing the current plan?
- 5 Q. Well, I'm talking about the one that the Union eventually  
6 filed an unfair labor practice charge about.
- 7 A. Okay. That came about in 2014, after Theresa Jordison was  
8 hired as the housing program director in April of 2014.
- 9 Q. Does that mean the whole thing was her idea?
- 10 A. No. That's why I stated are you talking about the current  
11 centralization. Because we have centralized the processing of  
12 guaranteed loans previously, under previous housing program  
13 directors. This was not the first time. It wasn't the second  
14 time. It wasn't the third time.
- 15 Q. Very well. When did these other centralizations take  
16 place, if you remember?
- 17 A. I believe back in the nineties, and then back in early --  
18 the 2000s, under previous housing program directors -- like  
19 Mr. Pavelit (ph.), Gail Ledger --
- 20 Q. Well, I appreciate your effort to be precise in your  
21 answers here. But, I would ask you to direct your attention  
22 only to the one that has taken place over the last couple of  
23 years. Because that's the one that is the subject of this  
24 legal case.
- 25 A. Okay. Well, it started after Theresa came. We, I

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1 believe, were having a problem on the number of housing loans  
2 that were being made in Texas. And Theresa, having come from  
3 Iowa, I believe, she had been participating in, I guess, talks  
4 like with the national office and other states that had already  
5 centralized. And when she came, she offered some insight from  
6 her experience being an area director in Iowa, of how to  
7 address the issues and concerns of the low volume of loans.  
8 The problem not just in the low volume, or the low number, but  
9 also the time it took to make those loans. Which I believe the  
10 procedure said we were supposed to do a quick turnaround of  
11 like 48 hours, and it got so bad it was like several weeks  
12 before those loans were being looked at and approved. So, she  
13 came to Paco and did some, I guess, studies and analyses of the  
14 history of that loan making process in Texas, and offered some  
15 ideas to help that. And then they decided -- the state  
16 director was in agreement with her suggestions on creating that  
17 centralization again.

18 Q. All right. At some point, a copy of the proposed plan was  
19 distributed to various people. Right?

20 A. Just in management, at the state office level.

21 Q. When was that?

22 A. When?

23 Q. Yeah.

24 A. Oh, I would say maybe approximately in the month of May,  
25 maybe.

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1 Q. All right. The record contains a number of letters of  
2 various people that are signed by Paco Valentin, the state  
3 director. Did he actually write all of those letters himself?

4 A. I don't know. It depends. Sometimes he did his own.  
5 Sometimes he asked the program directors to do letters for him.  
6 You know, if it was within their program area, such as -- like  
7 for me, admin, I did a lot of the letters for admin. I'm sure  
8 the other program directors did the letters for their programs.  
9 He always, you know, had the final say and made changes. But  
10 he was the one that signed them.

11 MR. MONTGOMERY: All right. Judge, I'm going to need the  
12 witness to look both at their exhibits and ours.

13 JUDGE CENTER: All right.

14 MR. MONTGOMERY: Which ones does she have there at the  
15 moment?

16 JUDGE CENTER: All right. You'll have to tell her which  
17 -- this is the --

18 MR. MONTGOMERY: Yeah.

19 JUDGE CENTER: -- General Counsel's exhibits.

20 MR. MONTGOMERY: We're going with the ones that are --

21 JUDGE CENTER: And this is the Respondent's Exhibits.

22 THE WITNESS: Okay.

23 Q. BY MR. MONTGOMERY: Yeah. We're going with the one that's  
24 in your left hand at the moment.

25 A. Okay.

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- 1 Q. Can you find the one that's marked as General Counsel  
2 Exhibit 10?
- 3 A. Okay. The email dated July the 3rd?
- 4 Q. Yes. That's it.
- 5 A. Okay.
- 6 Q. The second page of that is a letter signed by the state  
7 director. Right?
- 8 A. Yes.
- 9 Q. And it's supplying the Union with notice that we're going  
10 to implement the plan. I believe is what it says. Right?
- 11 A. Uh-huh. Yes. Uh-huh.
- 12 Q. And it also says if you want to negotiate the impact and  
13 implementation, please send a response to Sylvia Maedgen.  
14 Right?
- 15 A. Uh-huh. Yes.
- 16 Q. You see that there?
- 17 A. Yes.
- 18 Q. Now that you've had a look at it, were you the person who  
19 actually drafted this letter for --
- 20 A. Yes. For Mr. Valentin, yes.
- 21 Q. All right. And did Ms. Young receive it as she was  
22 supposed to do?
- 23 A. I'm assuming she was. I would have thought I would have  
24 emailed that to her.
- 25 Q. All right. What sort of response did you get to that

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1 invitation to -- well, what it says here is negotiate. What  
2 response did you get to that?

3 A. I believe we did get a letter from her wishing to bargain.  
4 I want to say the date was, I think, July the 15th. Because  
5 the Response date was July the 16th.

6 Q. Okay.

7 A. And I believe she did submit a letter. I don't know if  
8 that's in here.

9 Q. Do you remember what she said in it?

10 A. I believe -- is there a copy of that in here?

11 Q. There should be. I'm just asking you for your  
12 recollection right now.

13 A. Okay. From what I remember, she did submit a letter with  
14 several items. Maybe six to 10 items.

15 Q. Yeah.

16 A. On what they felt they wanted to bargain over. And during  
17 this time period, I consulted with our office in St. Louis  
18 labor relations specialist about the process in reviewing what  
19 they were asking to bargain over. If there was any validity to  
20 what they were stating and how we were going to respond.

21 Q. All right. Later on, there was a face to face meeting  
22 between some management people and some union people. Right?

23 A. Yes.

24 Q. And that's the meeting that took place August 1, 2014?

25 A. Yes. I believe so.

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1 Q. What did you consider to be the purpose of that meeting?

2 A. Again, by that time we had already told the Union that the  
3 letter that they submitted did not offer any valid reasons or  
4 material to bargain over. It was just merely just a lot of  
5 words and jargon and legalese, but they did not provide any  
6 substantive information for us to consider to bargain over.  
7 And I believe we responded back to them telling them that. And  
8 prior to the meeting on August 1, if memory serves me right, I  
9 believe we weren't necessarily meeting to bargain but at least  
10 to sit down with the Union and give them an opportunity to  
11 elaborate -- again, what it is they really wanted for us to  
12 consider before we actually implemented.

13 Q. Well, if you'll find General Counsel Exhibit 11 in there.  
14 I think that contains what you're talking about, the list of 10  
15 points. You'll have to flip a few pages into it to find it.  
16 It says union 30 at the bottom.

17 A. That's their letter.

18 Q. Yeah.

19 A. Yes. Uh-huh.

20 Q. Were these 10 points discussed at the August 1 meeting?

21 A. I think we might have addressed those. Since I've  
22 retired, I don't have my notes that I would have had from that  
23 meeting. But, we might have tried to explain to them why some  
24 of those were not addressed or going to be addressed as a  
25 bargaining issues, and we were not able to make ourselves clear

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1 to the Union that reasoning.

2 Q. Why were you not able to do that?

3 A. It's not that we weren't able to give it. I don't think  
4 they were willing to listen and accept that.

5 Q. To accept what?

6 A. The fact that this was not going to be bargained over,  
7 because they did not provide a legitimate or valid -- not  
8 necessarily reasons, but valid information as to what it is  
9 that they wanted to bargain over.

10 Q. All right. Well --

11 A. And some of these they were talking about here might have  
12 included management rights, and we were not willing to  
13 negotiate over what management rights were and give up any.

14 Q. All right. Can we go over the points 1 through 10 in  
15 order? And you tell me what our position was about each one.

16 A. Okay.

17 Q. The first one was -- refers to not diminishing or waiving  
18 any rights bargaining unit employees already have. Do you see  
19 that?

20 A. Yes.

21 Q. What was our position on that?

22 A. We weren't going to take away any rights from any  
23 bargaining unit employees. With the implementation of the  
24 centralization of the housing -- the guaranteed housing and the  
25 direct program as well, we wanted to open an opportunity for

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1 our current employees in Texas Rural Development to voluntarily  
2 reassign into one of these positions on the teams. Whether  
3 it's a specialist or a technician or an assistant. And there  
4 was -- it was not going to be competitive, because these were  
5 later reassignments. No one was going to be getting a  
6 promotion. They were not going to be required to move from  
7 their current location, wherever they were already working in  
8 the field. They were going to be able to remain in those  
9 offices and work, because everything is done electronically  
10 now. But they would be working under the supervision of the  
11 housing program director. No longer their local supervisor, at  
12 their current location.

13 Q. Okay. Well, getting back to the 10 points here. Was  
14 there any disagreement between management and union about this  
15 proposal number one on their part?

16 A. I think they were -- the disagreement was, I feel, that  
17 they did not believe that the employees would not be adversely  
18 impacted. We didn't see that as being adversely impacted. I  
19 think they felt that they would be. But yet, they couldn't  
20 stipulate or identify what adverse impact could be occurring.

21 Q. Now, for number two, they were requesting a joint study  
22 before implementing the plan. Do you see that?

23 A. Yes.

24 Q. What was management's position about that one?

25 A. We were not going to agree to that. I believe that



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- 1 Theresa Jordison, the housing program director, had done a  
2 study by contacting various states -- and maybe even at the  
3 national office. But you'll have to verify that information  
4 with her. But, she did have an analysis with figures on loans  
5 and how other states did them, and how we could do it if we  
6 were to implement the centralization. And that's what she  
7 presented to the state director. But that had already been  
8 done. The facts and figures were there. And I believe that  
9 management had provided that information to the Union as well.
- 10 Q. Well, what about the idea that notwithstanding that we  
11 already had our own study we should do another one jointly with  
12 the Union?
- 13 A. That wasn't my decision to make, but I think between  
14 Theresa and the state director they felt there was not a need  
15 to. Because her analysis was very comprehensive, and very  
16 detailed. And I don't know that anyone else, other than a  
17 management official, would have access to a lot of that  
18 information.
- 19 Q. All right. Do you believe that any further negotiation or  
20 any further bargaining could ever have changed management's  
21 position on this point?
- 22 A. On that point?
- 23 Q. About the joint study, yes.
- 24 A. Number two? No. No.
- 25 Q. Number three. No position will be removed from the

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1 bargaining unit as a result of centralization.

2 A. That was correct. Again, these were going to be lateral  
3 reassignments. It was not supervisory jobs. They were all  
4 bargaining unit employees, just lateraling over to the housing  
5 program as a specialist or a technician or assistant.

6 Q. All right. Well --

7 A. They were going to remain a bargaining unit employee.

8 Q. Okay. On August 1, though, about this point number three,  
9 no position will be removed, was there any remaining  
10 disagreement between management and the Union?

11 A. I think if we talked about that I think we were able to  
12 make them understand that. But that's, you know, kind of what  
13 I remember.

14 Q. All right. Do you believe that there was anything to  
15 bargain or negotiate on that point beyond what was already said  
16 on August 1?

17 A. No. There wasn't a need. Because nothing was going to  
18 change in that regard.

19 Q. All right. Number 4, the Union asks that the lead  
20 compliance and team lead positions will be filled on a  
21 competitive basis, as covered by CBA and MOA. Were we in  
22 disagreement with them about that one?

23 A. Yes. Because the term lead compliance team, that was just  
24 kind of used in the discussion. It was not part of any  
25 employee's official job description title. Okay. And these

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1 were in reference to the GS-12 specialists in the housing team,  
2 both direct and guaranteed. Those employees had previously  
3 competitively competed for those jobs under the merit promotion  
4 program. Their jobs were a little bit different as far as they  
5 were not churning out the production of the loans. They were  
6 more of the analysis part -- making sure compliance of the  
7 loans, helping the program director work with the other  
8 specialists that were doing the loans, and therefore we were  
9 not going to be filling those positions. We were only trying  
10 to fill the production of the loans at the lower grade levels.  
11 So, therefore, management was not willing to, one, make those  
12 employees reapply for a position they had already previously  
13 competed for, legally.

14 Q. I see. Do you believe that any further bargaining or  
15 further negotiation beyond what took place already on August 1  
16 could have lead to a change in management's position on this  
17 point?

18 A. No. No.

19 Q. All right. Number 5, it says here employees will be  
20 selected according to -- well, essentially it says ask for  
21 volunteers and if there are too many award the positions based  
22 on seniority. See where it says that?

23 A. Yes.

24 Q. Were we in disagreement with the Union about this point?

25 A. Yes. That is correct.

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1 Q. What was our position?

2 A. We did not feel that seniority was the best process. The  
3 program director, Theresa Jordison, wanted to be able to  
4 interview the individuals that wanted to come over voluntarily  
5 and wanted to find the best suited employees to fill those  
6 positions. As any manager would, whether it's noncompetitively  
7 or competitively. And if it had been based on seniority, that  
8 may not have been the outcome that would have come about -- if  
9 the selections were based on seniority.

10 Q. Okay. Do you believe that any further bargaining or  
11 further negotiation beyond what took place on August 1 could  
12 have changed management's position on this point?

13 A. No.

14 Q. The Union's point number six was current vacant FTEs will  
15 be assigned to area offices that will be negatively impacted by  
16 the reassignment. Did management disagree with them about  
17 that?

18 A. Let's see here. As far as vacancies, any time you have  
19 vacancies and whether if an agency is not able to fill them,  
20 and that was usually mandated by the national office -- not  
21 necessarily Texas. Because for several years, especially after  
22 2011 when the Agency offered the VERA/VSIP, Texas -- we had 17  
23 or 18 employees take that. And after that -- because that  
24 included the buyout -- we lost those FTEs. So, we were  
25 basically under a hiring freeze for several years. And we had

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1 legitimate vacancies that we were not able to fill.

2       So, part of those vacancies might have come from back  
3 then, 2011. And then anybody else since then. Because we lost  
4 a few after 2011 VERA/VSIP. So, if anybody did voluntarily go  
5 to the housing, yes, that could have created a vacancy at the  
6 local office level. And sure, that could have an impact. I  
7 wouldn't necessarily agree that it could be negative. But, it  
8 could impact that office. But then again, depending upon our  
9 situation on whether we could backfill those positions, you  
10 know, it's hard to say that it's going to negatively impact  
11 them if we were able to fill some afterwards.

12 Q.   Okay. Well, as I understand it this point addresses the  
13 question of how to assign FTEs geographically before they're  
14 filled.

15 A.   We didn't assign FTEs geographically. It was at the state  
16 level. And, you know, some of those FTEs are at the state  
17 office level and some are at the field level. For tracking  
18 purposes, as a manager and over the administrative  
19 responsibilities for this state, I kept a record of FTEs by  
20 each office. But that also included if that office had  
21 vacancies and things like that. But we didn't per se give an  
22 office so many FTEs.

23       Because, you know, over the years we've had several  
24 restructurings. And some offices somewhat overstaffed, and  
25 some understaffed. So, if an office that is overstaffed then

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1 has a vacancy, you know, the decision was determined at that  
2 given point in time, okay, do we need to backfill that position  
3 in an overstaffed office. We may need to fill it at another  
4 office that has been understaffed. So, you know, they're not  
5 assigned to each office. No. Never had been.

6 Q. As of the end of proceedings on August 1, was there any  
7 remaining disagreement between you and the Union about how FTEs  
8 would be handled?

9 A. Probably. I don't remember the specifics. But, I  
10 remember them discussing the FTE situation. And their concern  
11 of how they're going to be negatively impacted. But, you know,  
12 in a way I can understand their concern. But having worked  
13 from it from an HR perspective for the many years that I did, I  
14 knew eventually everything is going to work out. I mean, even  
15 after we did our RIF we went through a transition period. But  
16 eventually, everything works out. You have to let the process  
17 work itself through. So, yes, I would say we had a  
18 disagreement. Because they're not able to understand the  
19 entire process. Which having gone through it, I knew what that  
20 process was going to be.

21 Q. Do you think that any -- and we're talking just about  
22 point number six here, about vacant FTEs -- do you think that  
23 any further bargaining or any further negotiation beyond what  
24 already took place on August 1 could have caused management to  
25 change its position about how it was going to handle the vacant

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1 FTEs?

2 A. No. Because, again, that's part of management's rights on  
3 the number of positions and types and grades and stuff. And we  
4 were not going to negotiate that.

5 JUDGE CENTER: Counsel, I'm going to ask the witness a  
6 clarifying question.

7 MR. MONTGOMERY: Please do.

8 JUDGE CENTER: Ma'am, I believe early in your testimony  
9 you indicated that the -- in your belief, the August 1st  
10 meeting was conducted to discuss things with the Union and not  
11 to bargain.

12 THE WITNESS: Yes.

13 JUDGE CENTER: Is that correct? Okay. Counsel, I'm going  
14 to ask you to refrain from indicating that bargaining occurred  
15 at that point in time, given the witness's testimony that  
16 that's not what the meeting was for. You're in essence  
17 clarifying -- you're in essence characterizing it as a fact  
18 that is not in evidence.

19 MR. MONTGOMERY: Your Honor, the Agency's position is  
20 going to be that what was taking place --

21 JUDGE CENTER: I understand that's the Agency's position.  
22 However, this witness has testified that that's not her  
23 understanding. And --

24 MR. MONTGOMERY: All right.

25 JUDGE CENTER: -- you keep putting those words into her

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1 mouth.

2 MR. MONTGOMERY: Fair enough, Your Honor.

3 Q. BY MR. MONTGOMERY: Let's move on to point number seven,  
4 regarding adverse impact on employees' work schedules.

5 A. Uh-huh.

6 Q. And that goes with 8 -- number 8, which is telework  
7 agreements and tours of duty.

8 A. Okay.

9 Q. Now, as I understand it what the Union wanted was for any  
10 employee who has had an established alternative work schedule  
11 or an established telework agreement -- or an established tour  
12 of duty -- to be able to keep that after the centralization and  
13 not have a change imposed upon that. Is that correct?

14 A. That's my understanding of what they wanted. Yes.

15 Q. Did management agree to do it that way?

16 A. No. No. We tried to explain that we could not predict if  
17 there would be any adverse impact. Because one, we didn't know  
18 which employees were going to be interested in offering to sign  
19 up for one of these positions. We had no way of knowing,  
20 because we had not, you know, put the request out. Not every  
21 employee is on an alternative work schedule. The majority of  
22 them are, but not all of them are. There is some flexibilities  
23 in employees having tour of duties. Not every employee wants  
24 to telework. So, we knew as managers that there wouldn't be an  
25 impact.



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1           But I think what the Union was trying to say is we just  
2   could not change anything. And that would not be in the best  
3   interest of the Agency and the mission of what we're trying to  
4   accomplish. Because, one, once an employee that volunteered  
5   for a reassignment -- and if they were selected -- then their  
6   supervisor changed. It would become Ms. Jordison. Their local  
7   supervisor would no longer be supervising them.

8           However, knowing that one of management's main concerns  
9   was that Theresa would be communicating with that local  
10   supervisor to ensure that that office was not negatively  
11   impacted. Okay. We wanted to let the supervisors know we're  
12   not going to leave you high and dry, that's not the purpose.

13          But, it was also Theresa's -- it was going to be her  
14   responsibility to ensure that that work under the guaranteed or  
15   the direct teams had to get done and accomplished. And, you  
16   know, between the various specialists and the technicians that  
17   were going to be selected, we knew they were going to be coming  
18   from all parts of the state. It wasn't just going to be out of  
19   just one or two offices, you know. We assumed that. We didn't  
20   know at the time, but we assumed that. And we were going to  
21   have to, again, work through that process, transition through  
22   all of that, for the alternative work schedules, for the  
23   telework, and for the tour of duties. You know, all the  
24   employees know the procedure -- the RD instruction -- as to  
25   each of those different policies and what is available to them.

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1 Again, it has to be approved by the supervisor.

2 But, as far as, you know, management thinking before we  
3 ever did this, okay, if you come to this we're going to change  
4 your alternative work schedule. You know, we're going to  
5 change your telework agreement. We're going to change your  
6 tour of duty -- no, that was not even discussed. It wasn't an  
7 issue for us.

8 Q. Do you think that any further proceedings beyond what took  
9 place on August 1 could have changed management's position on  
10 those three forms?

11 A. No, because again, from what my understanding was the  
12 Union was wanting to make no change at all. Not even open for  
13 discussion. And that would be taking management's rights, as  
14 far as being able to make those direct assignments once those  
15 individuals were selected for the job.

16 Q. All right. And the last point, number 10, says workforce  
17 will remain status quo until bargaining is completed by the  
18 Union. You see where it says that?

19 A. Yes.

20 Q. Did management agree to that?

21 A. No. We would have not agreed to that, because management  
22 was wanting to implement this program. Given the fact of the  
23 history and the low productivity of the loans and the slow  
24 processing of those loans, something had to be done. You know,  
25 many years ago Texas used to be way up there as far as really

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1 getting the job done. And over the years we kind of fell.  
2 And, you know, the national office puts pressure on the states  
3 to make those loans. We need to make those loans so that, you  
4 know, we can serve the public that needs that funding for those  
5 houses -- for the houses and stuff. So, you know, we were  
6 under scrutiny from the national office. Something had to be  
7 done. And that was, you know, the decision that the state  
8 director and the housing program director were trying to make  
9 for the betterment of Texas Rural Development and the  
10 population of Texas.

11 Q. Well, in fact the decision to implement the centralization  
12 plan took place only a few days later. Right?

13 A. Yes.

14 Q. Did you advise the state director about whether or not he  
15 should pull the trigger on that date?

16 A. We discussed that. And we knew it was going to be a long  
17 road whether we waited and, you know, decided to go or  
18 re-decide to go back and negotiate anything, and we knew it was  
19 going to be difficult because, again, we didn't feel like there  
20 was enough information or ideas or plans that the Union did not  
21 provide at that given point in time, and it would just be a  
22 delay tactic to, you know, stall ever implementing this. And a  
23 decision needed to be made as far as, you know, making those  
24 loans. And between the housing program director and the state  
25 director they felt we had to do something.

Maedgen

1           And it was not going to adversely impact from what we  
2   could see any of the bargaining unit employees if they were  
3   selected for either of these teams. And so the decision was  
4   made by the state director, in talking with our labor  
5   management -- or, labor relations specialist in St. Louis, Mr.  
6   Keim and Mr. Asadorian (ph.) to make sure we were on solid  
7   footing with this. And so having been assured that, that's  
8   when we proceeded to implement.

9           MR. MONTGOMERY: Okay. That's all I have for this  
10   witness, Judge.

11          JUDGE CENTER: Cross-examination?

12          MS. DYE: No questions.

13          JUDGE CENTER: All right. Ma'am, I've got some questions  
14   for you.

15          THE WITNESS: Yes, sir.

16          JUDGE CENTER: You've kind of given me some information,  
17   but you didn't use the language I'm used to.

18          THE WITNESS: Okay.

19          JUDGE CENTER: So, I want to see if it's what you meant.

20          THE WITNESS: Okay.

21          JUDGE CENTER: With respect to the labor relations experts  
22   in St. Louis, they reviewed the proposal that the Union gave  
23   you. Is that correct?

24          THE WITNESS: Yes, sir.

25          JUDGE CENTER: And what did they tell you? What did they

Maedgen

1 say about those proposals?

2 THE WITNESS: They basically stated that the Union did not  
3 provide any substantive information for us to consider to  
4 actually sit down and negotiate something. It was outside of  
5 management rights. Because we were not going to negotiate over  
6 management rights.

7 JUDGE CENTER: And that kind of gets to the next question  
8 I was going to ask. Does that mean in your recollection the  
9 labor relations people in St. Louis told you that none of those  
10 proposals were -- that all those proposals were nonnegotiable?

11 THE WITNESS: Yes. Basically, yes.

12 JUDGE CENTER: All right. And again, it goes to the last  
13 question I asked. But earlier, you said it was no valid  
14 material

15 THE WITNESS: Yes.

16 JUDGE CENTER: And when you said no valid material, you  
17 meant nonnegotiable?

18 THE WITNESS: Yes. Yes.

19 JUDGE CENTER: All right. You indicated you believe you  
20 responded to those proposals. Is that correct? You believe  
21 the Agency did?

22 THE WITNESS: Yes. I believe we did explain. I don't  
23 know if we addressed every single one. I would have to go back  
24 and look in the file. I don't know if it's in here or not. In  
25 responding that we would not bargain over that. Because we did

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1 not feel there was anything substantial and specific to the  
2 ideas of what they're wanting to bargain over.

3 JUDGE CENTER: In your recollection, you told them that  
4 you were not going to bargain. But did you tell them that the  
5 proposals were all nonnegotiable? Do you know if you used that  
6 word?

7 THE WITNESS: I don't know. I'd have to go back and look  
8 at the letter.

9 JUDGE CENTER: Okay. That's fair. I'm just -- but, in  
10 follow-up to that, it is and it was your understanding that the  
11 meeting on August 1st was not to bargain.

12 THE WITNESS: Yes. My understanding after talking with  
13 the labor relations specialists was that we were just going to  
14 sit down with the Union, give them an opportunity to address  
15 anything specific -- and, you know, they could have elaborated  
16 more so on what they previously submitted. But, we were  
17 willing to listen to them, address anything specific, and at  
18 least listen and take that into consideration before we  
19 actually implemented.

20 JUDGE CENTER: All right.

21 THE WITNESS: We were giving them that opportunity.

22 JUDGE CENTER: So, calling your attention to proposal 10.

23 THE WITNESS: Uh-huh.

24 JUDGE CENTER: Which I believe is the one where the Union  
25 said no implementation until bargaining is completed. It was

Maedgen

1 the Agency's position that there was going to be no bargaining.

2 THE WITNESS: Yes. Because they failed to give us  
3 anything to bargain over.

4 JUDGE CENTER: All right. Thank you. Redirect in  
5 response to my questioning?

6 MR. MONTGOMERY: No, Your Honor.

7 JUDGE CENTER: Any cross?

8 MS. DYE: Yes.

9 JUDGE CENTER: All right. Subject to recall?

10 MR. MONTGOMERY: No.

11 JUDGE CENTER: Ma'am, thank you very much for your  
12 testimony today.

13 THE WITNESS: Okay.

14 JUDGE CENTER: Congratulations. You're what I want to be  
15 when I grow up.

16 MR. MONTGOMERY: Which is retired?

17 MS. DYE: Don't we all.

18 THE WITNESS: It's a wonderful thing. I highly recommend  
19 it. Okay. Thank you.

20 JUDGE CENTER: Thank you, ma'am. Appreciate your  
21 testimony.

22 THE WITNESS: You're welcome.

23 **(Witness excused.)**

24 MR. MONTGOMERY: Theresa Jordison.

25 JUDGE CENTER: Ms. Jordison, if you would, please raise

Jordison

1 your right hand.

2 Whereupon,

3

**THERESA JORDISON**

4 was called as a witness by and on behalf of the Agency and,

5 after having been first duly sworn, was examined and testified

6 as follows:)

7 JUDGE CENTER: Please be seated.

8 THE WITNESS: Thank you.

9 JUDGE CENTER: Please state your name.

10 THE WITNESS: Theresa Jordison.

11 JUDGE CENTER: Please state your name.

12 THE WITNESS: Theresa Jordison.

13 JUDGE CENTER: And would you please spell that for the  
14 court reporter?

15 THE WITNESS: T-h-e-r-e-s-a. Last name Jordison, J-o-o-r-d,  
16 like David, i-s-o-n. Uh-huh.

17 JUDGE CENTER: Counsel, proceed.

18

**DIRECT EXAMINATION**

19 Q. MR. MONTGOMERY: Good afternoon, Ms. Jordison.

20 A. Hi.

21 Q. Can you tell us how you are employed today?

22 A. I'm the housing program director for USDA Rural  
23 Development here in Texas.

24 Q. What GS grade does that position carry?

25 A. GS-13.



Jordison

1 Q. All right. How long have you been in that position?

2 A. Since April of 2014.

3 Q. Okay. Can you tell us how you came to, shall we say, be  
4 hired for that position?

5 A. Sure. In 2002 I started working for USDA Rural  
6 Development in Iowa, working my way up through -- I started as  
7 a business program specialist. Then I went to community  
8 program specialist. Then I was promoted to an area director,  
9 after four years. I was an area director for eight years, and  
10 decided I was ready for some other challenges. My college  
11 degree is in housing and the environment, so I was looking at  
12 really more -- looking at towards -- my degree in joint  
13 housing. So, I started applying for some different jobs across  
14 the country, to move out of Iowa into a warmer climate and some  
15 good challenges. So, I applied for the position in December of  
16 2013, and was interviewed by panels and was awarded the  
17 position.

18 Q. The state director here, was he the selecting official?

19 A. He was. Yes.

20 Q. When you started in the job, did the state director tell  
21 you that there was anything particular that he wanted you to  
22 accomplish while you were here?

23 A. The state director wanted me -- the position had been  
24 basically not filled for almost three years, due to the hiring  
25 freeze. So, the position was being ran by acting individuals

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1 in a capacity that maybe did not have some expertise. But  
2 they're just kind of keeping the ship afloat. So, what was  
3 requested of me was to come into, basically, Texas, do an  
4 assessment, and make the Texas housing programs stronger, show  
5 what we can do here in Texas and things like that. But really,  
6 more than anything was keep them moving down the road -- and  
7 decreasing our delinquency rates, different things like that.

8 Q. Okay. Now, you understand the reason we're all here today  
9 holding this hearing is because of the centralization plan that  
10 was implemented a while ago. Right?

11 A. Yes. I understand.

12 Q. What level of responsibility did you have in creating that  
13 plan?

14 A. Well, I feel like I'm the author of that plan. The first  
15 really -- even before I got here I received reports from what  
16 Texas was doing for housing direct, the guaranteed program,  
17 multi-family housing program, HPGs and 504s -- different things  
18 like that. So, I was reviewing them. I was actually -- I took  
19 off a month. My father was very ill, so I wanted to be with  
20 him. And so I was reviewing a lot of the reports.

21 And then when I got here in April, I started just --  
22 instead of jumping into the programs, I wanted a full  
23 assessment of the programs. So, I started looking at what our  
24 business model looked like. What our successes were. Where we  
25 were having some struggles or some challenges. And so I kind

Jordison

1 of did the assessment, and then I worked on -- I asked other  
2 housing program directors from other states what does your  
3 model look like, compared to us -- which we've very unique down  
4 here, because we're so large -- but I kind of wanted to get  
5 some other ideas because coming from Iowa I knew the Minnesota  
6 and the Iowa and the Nebraska and the Missouri -- you know,  
7 what the different business models were there. So, I actually  
8 called out to other states trying to learn about how have you  
9 reduced your delinquency level, how have you increased the  
10 numbers -- different things like that.

11 So, I actually got quite a few different plans and ideas.  
12 And then based on my assessment of our programs, I tried to put  
13 together something that would hopefully make our programs  
14 stronger. Because what we were seeing was a decline in the  
15 housing -- numbers that were going down -- and really that was  
16 because of a lot of -- we didn't have any FTEs. We didn't have  
17 the FTEs in the field in order to implement the housing  
18 programs. We have the same number of FTEs as the state of  
19 North Carolina. However, you can fit five North Carolinas in  
20 the state of Texas, okay. So, they are on top of their game  
21 and they're number one in the country because they have  
22 presence in the state.

23 And our large geographic area here really has a lot of  
24 challenges, because we can't get to a lot of the areas where  
25 our clients are. Since we had a hiring freeze, we could not

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1 hire any more people. That was really a struggle for us in  
2 order to do. If we had 250 FTEs, we wouldn't have this  
3 situation of a centralization because we would have the  
4 presence in the field in order to implement these programs in  
5 the field in a much better way. So, basically, what I did is I  
6 looked at a lot of those. I looked at where we were here in  
7 Texas. And I tried to put together a plan that would help the  
8 field offices and also our clients, but -- and also our team  
9 members.

10 So, it wasn't just what the field offices could do, but  
11 the team members that worked in there -- and meaning all of  
12 Texas Rural Development employees. But then serving our  
13 constituents. I had lenders that were screaming because it  
14 took three and a half weeks to process an application in the  
15 guarantee program. I had investors -- Ginnie Mae and also  
16 Chase Bank -- they're our number one investor. They were  
17 screaming because they were pulling -- Ginnie Mae was pulling  
18 loans because we couldn't get loan note guarantees. It took  
19 over three months to get a loan note guarantee. That's bad  
20 business. And that was hurting our business here in Texas.  
21 And those were some of the things that I had to look at by  
22 putting this plan together.

23 Q. All right. Now, I gather from what you've just said that  
24 the purpose of the plan was to make the system work better than  
25 it had before. Correct?

Jordison

1 A. Correct.

2 Q. All right. Now, we'll get back to this later on. But I  
3 don't want to let the point pass without giving you a chance to  
4 have your say about it. There has been testimony in this room  
5 today that the implementation of the plan has led to Rural  
6 Development Texas working worse than it did before and serving  
7 the people of this state worse than it did before. Do you  
8 agree with that?

9 A. I do not agree with that.

10 Q. All right. As I say, we'll get back to it.

11 A. Okay.

12 Q. Now, when the plan was -- I guess we would say --  
13 finalized, certain things had to be done before it could go  
14 into effect. Right?

15 A. Uh-huh.

16 Q. One of those was to show it to the Union. Right?

17 A. Uh-huh.

18 Q. Did that happen?

19 A. Well, a couple of times. First of all, I had this  
20 preliminary plan that I kind of put together and I introduced  
21 it to the state director on June 2nd. And I got here in April.  
22 So, every early -- I mean, I took those couple of months to do  
23 that. The first thing he said was I want you to kind of give  
24 your idea to the leadership team. Which was the other program  
25 directors. And I said okay. So, we had a meeting. And in

Jordison

1 that meeting that came out, they said you need to introduce  
2 this plan to the Union and the association. So, I said okay,  
3 no problem. So, on Friday -- which was June 6th, on Friday --  
4 I made a phone call, along with Sylvia Maedgen -- we were in  
5 the same office. I made a phone call to Sabrina Glenn, who was  
6 the president of the Texas Association of Credit Specialists,  
7 and I made a separate phone call to Renee Young, who  
8 represented the Union membership here in the state of Texas.

9 And I gave them an idea of here, this is what the program  
10 is, this is what I'm seeing as concerns, this is some of the  
11 things that we thought that we could do. Both of them -- this  
12 is great, Texas needs something, really excited about this, we  
13 want to be a part of it, how can we help you. Great. So, we  
14 got off the telephone conversation and I thought okay, this is  
15 going to work out really well.

16 Then, since Renee Young wasn't the only individual,  
17 obviously, in the Union, I was asked to come in during a labor  
18 relations meeting in June and during that meeting I was like a  
19 guest presenter. Because, I think, Donna Freytag, Michael  
20 Canales and Sylvia were there representing management. And  
21 then it was Terry Chenoweth, Dee Aupperle and Renee were  
22 representing the Union. So, I was asked to come in towards the  
23 end of the day and talk about, again, the program.

24 Before I went in there, we had provided them kind of a one  
25 page here's -- what the guaranteed looks like, here's what the

Jordison

1 direct looks like. The guaranteed was already kind of  
2 centralized, but we had some tweaks that we wanted to put to  
3 it. The direct was not. So, we provided that ahead of time  
4 and they asked some very good questions, okay. What is this  
5 going to look like -- they had some really good questions that  
6 they asked of me -- how are you going to select these  
7 individuals. Sylvia was there, and she said, well, we go  
8 through the same process. We can ask the questionnaires like  
9 they would if they went through USA Jobs. And so they have  
10 list of questionnaires. And I had not seen those, so I don't  
11 know what they look like. But I trusted that that would be  
12 fine.

13 And we talked a lot of the other things. The real concern  
14 that came from -- I remember, during that time -- was who was  
15 in control of the FTEs. And tried to explain to them the FTEs  
16 belong to Texas. They don't belong to you or you or you. They  
17 belong to Texas, for us to implement the programs. So, after  
18 that -- again, that was, I think in -- I want to say in mid-  
19 June or late June. And then through the month of July I was in  
20 travel status quite a bit. And then I received an email from  
21 Sylvia Maedgen that we were going to bargain the 10 points that  
22 we received. And I think the letter was dated like the 15th of  
23 July or something like that. But there was a letter that we  
24 received from the Union that says the Union demands to bargain  
25 over these items. So, we were prepared to go into -- I think

Jordison

1 it was scheduled for the 29th through the 30th of July  
2 originally. But we ended up going in on August 1st.

3 And so August 1st it was Allen Lambricht. He's an area  
4 director. It was me, and it was Sylvia Maedgen. And then in  
5 the room in 135 was Renee Young, Dee Aupperle, and again Terry  
6 Chenoweth. And we talked about the 10 points on that letter,  
7 what they wanted to bargain about. Let's bargain about them.

8 And so we went through kind of one by one each one of  
9 those items. We kind of collectively put together, I think it  
10 was, tour of duties and telework and AWS, because we didn't  
11 know who was going to apply for these jobs. So, it was hard to  
12 identify what the impact would be when it was an unknown. And  
13 so we did talk about that.

14 We talked about -- I conceded over not hiring any  
15 assistants, because they talked about how important the  
16 assistants are in the administrative work there in the area  
17 offices -- answering the phone, covering the offices, things  
18 like that. So, I conceded to that. They wanted my GS-12  
19 specialists to have to reapply for their own jobs. And that  
20 was one thing that we said no, because they had already applied  
21 for their own job in a competitive basis. And they had moved  
22 their family here on their own expense. Why should they have  
23 to reapply for their own position.

24 So, we went through a lot of those things -- telework,  
25 AWS, tour of duty. They wanted a guarantee that all the FTEs



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1 that were lost in the area office would go back to those area  
2 offices. Well, we didn't have any more FTEs. That's why we  
3 were doing a lateral from the internal. It would be just  
4 lateral positions -- no promotions. We're just asking for  
5 volunteers.

6 And then they wanted those volunteers selected based on  
7 seniority. And as a recommending manager, I have never hired  
8 anybody or recommended based on seniority. And I don't think  
9 OPM will even allow that. So, that was completely something  
10 that we were in disagreement, as far as that bargaining. We're  
11 not going to hire based on seniority. And it was quite a  
12 discussion. It was funny, because there was like -- it was  
13 okay in one situation, some of this, but it wasn't okay.

14 And I'll give you an illustration. Allen Lambright got up  
15 there. He was the area director, so he's a field area  
16 director. He gets up there and, you know, he has a big picture  
17 of Texas right up there. And he said okay, he goes, so let's  
18 say that we cut, you know, Texas into four regions and have  
19 this big mega-area. Okay. And he goes I'm the area director  
20 for this one up here. And he goes Dee, you're my multi-family  
21 housing person and Sue is this and Terry, you know, you're  
22 this. And you know, you're going to work in that whole area  
23 and you're in charge of all the multi-family housing for that  
24 area. You're in charge of all the single family housing. He  
25 goes how would that work. And they're all going that would be

Jordison

1 great.

2 And we're going well, what's that the difference if  
3 everybody is working for me in the single family housing  
4 program. And they said because the FTEs go to the state  
5 office. We couldn't get across that the FTEs are here to serve  
6 the people of Texas. It doesn't matter where they're at. So,  
7 they're just reporting to somebody differently. And it was  
8 okay to report to an area director, but it wasn't okay to  
9 report to a program director. So, you know, those were the  
10 things that we were bargaining over during that August 1  
11 meeting. And I think we finished up -- it was, I want to say,  
12 early afternoon. We were done.

13 Because I know Dee kind of ended the meeting saying well,  
14 in my office I do everything because I'm a two person office.  
15 So, I do every single thing. So, I'm a generalist. So,  
16 everything that happens in the Edna office I have to do, and my  
17 assistant. And I took that into consideration, because her  
18 assistant actually applied for one of the jobs. But again, out  
19 of respect for the Union and understanding the needs of those  
20 offices, that was one of the things that we absolutely conceded  
21 on. I'm not going to put them in a bind.

22 So, during that bargaining time that's what we talked  
23 about, was the list of 10 items that they requested to bargain  
24 on.

25 Q. I believe you may have answered this question already, but

Jordison

1 I want to make sure you say it in so many words.

2 A. Uh-huh.

3 Q. Did you consider what took place on August 1 to be a  
4 session of bargaining between labor and management?

5 A. Yes. And we actually went in there with that letter from  
6 the Union that said here's what we want to bargain over, and  
7 that's what we went through -- that entire letter. That's what  
8 we were prepared to do. So, yes, it was my understanding we  
9 were going there to bargain.

10 Q. Now, you said that this session broke up in the early  
11 afternoon. I think around 1:45 or 2 p.m.

12 A. Uh-huh.

13 Q. Is that right?

14 A. That is correct.

15 Q. Is there a reason it didn't go later than that?

16 A. Well, Dee and Renee had a very long distance to drive  
17 back, to go back to their home. One lives in -- well, I don't  
18 know where they live but I know one has an office in Huntsville  
19 and the other is in Edna. But I'm unsure where they live. But  
20 they had a distance to drive. So, that's why.

21 Q. Now, when the session broke up did anybody on either side  
22 say well, we have unresolved issues and we need to get together  
23 at a later date to continue discussing bargaining, negotiating,  
24 whatever.

25 A. No. No, and I really paid attention to that. Because,

Jordison

1 see, I had to leave on Sunday to go to Washington, D.C. I was  
2 there for a week. That was already planned. So, I was very  
3 aware, because I needed to know what was going to go on or if  
4 we needed to move on. There was none of that in question, that  
5 they even talked about or brought up that they needed to talk  
6 further.

7 Q. Well, in that case, is it fair to say that everything that  
8 could be resolved was resolved on that date?

9 A. I believe yes, it was. I think that the Union had some  
10 wins. And I hate to call them wins. The Union had some things  
11 that was very important to them, and we also saw how important  
12 it was to the Agency. And I think on the other side we had  
13 some also wins, showing that we had to make some changes to the  
14 centralization in order to help implement the housing program.  
15 So, I felt like it was mutually beneficial at the very end of  
16 it, and nobody had any questions.

17 Q. All right. Well, in fact, just the week after the state  
18 director decided to implement the plan. Right?

19 A. That is correct.

20 Q. Did you advise him in making that decision?

21 A. No, I did not. Again, I was in Washington, D.C. I  
22 provided my notes to -- well, actually, through Sylvia before I  
23 left. I said here is my notes from the meeting. And again, I  
24 left on Sunday to go to D.C. So, I was there for the week.

25 Q. All right.

Jordison

- 1 A. Uh-huh.
- 2 Q. Before you went up to D.C., did you know that that  
3 implementation memo was going to go out the following week?
- 4 A. No, I did not.
- 5 Q. All right.
- 6 A. There was never, for sure, any day that we knew it would  
7 go out. But we felt comfortable it would.
- 8 Q. If you'll take a look at the smaller of the two books  
9 you've got there. See if you can find exhibits marked  
10 Respondent 1 and Respondent 2.
- 11 A. So, these say like an R-K-1. Or is that what --
- 12 Q. It would be R-R-1, in that case.
- 13 A. Okay. R-R-1, sorry.
- 14 Q. We're going from the letter K down to the letter R, I  
15 believe.
- 16 A. Okay. R-R-1.
- 17 Q. Yes.
- 18 A. Uh-huh.
- 19 Q. Is that one that says, at the top, "Based on my phone  
20 logs."
- 21 A. That is correct?
- 22 Q. Did you create that document?
- 23 A. I did.
- 24 Q. All right. Well, first things first. It doesn't seem to  
25 have a date on it. Can you tell us when you created this?

Jordison

1 A. I created this just probably about three weeks ago, just  
2 kind of compiling information based on a request.

3 Q. All right.

4 A. Uh-huh.

5 Q. Well, I don't want to go into too much detail. I'll let  
6 you do that. For what purpose did you create this document?

7 A. Well, it was towards the end of the year and what I want  
8 to do is I want to see a before and after. How did we do  
9 before. And we've gone through a year of the centralization,  
10 what does it look like now. Okay.

11 Q. Uh-huh.

12 A. So, what I do when I get phone calls -- if they're not  
13 area office phone calls -- so, if they're lender phone calls,  
14 applicant -- I keep a phone log, you know, and what they called  
15 in about and if I referred them to different ones. And so  
16 before we actually centralized the direct team -- and then we  
17 had a dedicated team for the guaranteed team -- I actually was  
18 logging lender complaints. That was mostly what it was, was  
19 lender complaints. I was getting applicant complaints, too,  
20 from the 502 direct program in the field. They were  
21 frustrated. They were calling us, like we put in an  
22 application, nobody in the area office will tell us what's  
23 going on with it, can you help me -- different things like  
24 that. That's kind of what these phone logs were about.

25 Most of the complaints for the phone logs, again, were

Jordison

1 from the lenders because they were frustrated. It's going to  
2 take me three and a half weeks to get my application reviewed.  
3 Can you give me a rush job, different things like that. So,  
4 then after the centralization, what I did is I wanted to keep  
5 track to show kind of a before and after, because in any  
6 business model you want to see how it's working. And so I did  
7 the same thing, and I looked at any kind of complaints.

8 As you can see, on the right-hand side under the dedicated  
9 team from October to March you saw the complaints decrease  
10 significantly. Well, this is because, also, our turn time in  
11 the guaranteed program went from three and a half weeks down to  
12 48 hours. So, that's why you saw this huge decrease in the  
13 number of complaints that I was getting from the lenders, which  
14 was great. This is a good thing.

15 And then the complaints also -- that continued on -- that  
16 went down from April and then May -- again, it could have been  
17 complaints about -- from a lender. A couple of them, they were  
18 actually a complaint -- they were frustrated maybe with a  
19 specialist. They didn't feel like they were getting the best  
20 service, or something like that. So, I took those kind of  
21 complaints also.

22 Based on my phone logs, the information is on the  
23 applicant complaints below. And it identified -- because what  
24 I would do is I would call out to those area offices going  
25 what's going on with these applications. Where are you at as

Jordison

1 processing these direct applications. And so I just identified  
2 the area offices. I didn't identify a person. But I wanted to  
3 know what the problem was. This was kind of a part of that  
4 analysis too -- why aren't we getting applications processed  
5 quickly.

6 And a couple of them actually said we don't have time. We  
7 put them in the file, and we send out the handbook letter too  
8 that says we do not have any Congressional funding. And I said  
9 but that's an error. We've had Congressional funding the  
10 entire year. And they go we just don't have the time to  
11 process the applications. Well, if you had to wait for a year  
12 to know if you got a house loan, I bet you're pretty  
13 frustrated. If you have a realtor out there that's got --  
14 that's trying to work with somebody and get a contract on a  
15 house, the seller is not going to wait a year to get a  
16 certificate of eligibility. This was actually going on out  
17 there in these area offices, because I was calling and talking  
18 to the people. And they weren't proud of it. Don't get me  
19 wrong. They were not proud of it. They just had to, like,  
20 choose between well, I've got to do a compliance review here  
21 for CP and I've got to do CF here and I've got to do an B&I  
22 here, and -- in multi-family housing -- they had to choose.

23 So, that was a part of those complaints that I was  
24 getting, and it was very frustrating. So, again, as you look  
25 at this it kind of goes down. Here's some of the complaints.



Jordison

1 It's taking too long to get a conditional commitment, we need  
2 to close ASAP, they want a rush, we're processing at three and  
3 a half weeks. Our regulatory compliance for 3555 is 48 hours.  
4 And we were outside regulatory compliance. So, that means  
5 national office was coming down on me saying you need to get  
6 your programs going here. So, that's what this was really all  
7 about.

8 And also, to issue a loan note guaranteed in the  
9 guaranteed program, that's 10 days -- we were over 90 days. I  
10 had Doug and Rob from Chase Bank, who is our largest investor  
11 bank -- they actually flew in from Florida and met with me.  
12 They were really concerned with this. And they have a direct  
13 connection to the national office. And you don't want to be on  
14 their bad side. And they were really concerned about what was  
15 going on also, because Ginnie Mae was saying we're not going to  
16 buy these loans because they're too old -- not a loan note  
17 guarantee. So, these were a lot of the things that were going  
18 on in the program that really caused a lot of problems. And  
19 again, I wanted to see the before and after effect.

20 Q. All right.

21 A. Uh-huh.

22 Q. I believe that Exhibit R-2 and S and T and U on the  
23 following pages -- did you create all of those?

24 A. I did. I did. Uh-huh.

25 Q. All right. And can you tell us what information can be

Jordison

1 derived from those following exhibits? So, up through the  
2 letter U.

3 A. Sure. On page 2, these are delinquencies levels for the  
4 guaranteed and the direct program. We look at kind of first  
5 year delinquencies and total delinquencies. And there's a  
6 reason for the -- you've got two different delinquency levels.  
7 First year delinquency is normally based on poor underwriting.  
8 Meaning the applicant probably did not have the income  
9 capacity, they did not have the debt service repayment ability  
10 from the beginning. The loan should have never been written.  
11 So, therefore, they're unable to start making loan payments and  
12 meeting their debt service.

13 Now, total delinquency has to do with maybe a life event  
14 that could happen. For example, I could be married for eight  
15 years. I have a house. And all the sudden, my husband dies.  
16 And now I don't have the income of my husband. Or I lost my  
17 job or my husband lost his job. That's a life event. And so  
18 we look at that as being total delinquency. If we look at  
19 these numbers for first year delinquency, in fiscal year '12,  
20 '13, '14 and '15, you can see that Texas went down  
21 significantly during the year that we centralized -- that first  
22 year delinquency. That means that we were writing more sound  
23 underwriting loans, because the people that were working in  
24 that program were better trained and better at doing their job.  
25 They were improving their craft, is what they were doing.

Jordison

1           And the national office even came out and said,  
2   nationally, congratulations to Texas, you have reduced your  
3   first year delinquencies. That's a really big deal, because  
4   that's a huge risk, to really the security of the government,  
5   and we're all taxpayers here. We don't want to lose that.

6           On R-S-3, it shows the delinquency by office pre-  
7   centralization. And again, there's no blaming people in the  
8   offices. The situation is everybody is generalists. They have  
9   to work in all the programs. So, they can't get really good at  
10   what they're doing. This right here, pre-centralization, shows  
11   that one-third of all applications -- of all loans that were  
12   written -- were becoming delinquent in the first year. People  
13   maybe didn't know really how to write loans really well,  
14   because they couldn't get engaged in training. Because, again,  
15   how do you concentrate on just one when you've got this fire to  
16   put out and that fire to put out and that fire to put out. So,  
17   this was a real issue for us here, the delinquency.

18          If you go into R-T-4, you're looking at unfunded  
19   applications by office. This concerned me. We had 327  
20   applications -- unfunded applications -- that were received  
21   that were over a year old, up to over 1,082 years old. No  
22   movement on the application. Did those people even want to  
23   purchase a home anymore? Basically, they were just pushed in a  
24   file cabinet and forgotten about. That's not fair to our  
25   applicants at all. We have to process these applications. And

Jordison

1 in our direct program, we have a certain time frame that we  
2 have to issue a handbook letter 11 and a determination on that  
3 application, whether it be a rejection, a withdrawal or a  
4 certificate of eligibility. There's a time frame there, and we  
5 weren't meeting that with these at all.

6 If we go to appeals, when I came here in April I told  
7 everybody -- I said I will handle all the appeals, because I  
8 want to see where our strengths are and our weaknesses are in  
9 underwriting. Okay. And I figure appeals would be a good way  
10 of doing it. I will prepare the record to send out to the  
11 administrative judge. During the fiscal year 2014, we had 16  
12 appeals. And these are very time-consuming, preparing, you  
13 know, a docket, our agency's position -- different things like  
14 that. 4 were in the guaranteed program and 12 were in the  
15 direct program. So, of the outcome of that, four were  
16 withdrawn by the appellant, six were overturned by the  
17 administrative judge -- meaning we made poor decisions out  
18 there -- three were upheld by the administrative judge --  
19 meaning our decision was correct -- and then three were  
20 dismissed by the national appeals division.

21 In Fiscal Year '15, from the time that we centralized, two  
22 appeals. One in the guaranteed program and one in the direct  
23 program. And I was very pleased at that. The one was  
24 overturned by the administrative judge -- and we have to note  
25 that I noted there this direct loan, the application, it was

Jordison

1 actually done in the area office before the direct team got  
2 ahold of it. So, the administrative judge overturned the  
3 decision. It came into the direct loan program, into the  
4 processing team, and they are now a homeowner. Because it took  
5 six months to get a no, and that's not right. People shouldn't  
6 have to wait six months to get a no.

7 The other one was dismissed by NAD because the lender  
8 closed the loan before this conditional commitment was issued.  
9 And that's a no-no. They automatically know that.

10 R-V-7 goes on here. These are actually -- again, I need  
11 to do performance reviews on my team members. So, how are we  
12 doing. So, I reach out to my customers, my lenders --  
13 different ones like that -- and say how are we doing. How were  
14 we doing last year at this time, how are we doing this year at  
15 this time. And I got responses from some of our biggest  
16 lenders out there. I also got a response from Chase Bank,  
17 telling me that, you know -- I think they said that we get the  
18 thumbs up award, or whatever. But, I mean, what we've done in  
19 one year to improve the timing has just been awesome. And  
20 again, there are investor banks. And then I've gone on, too,  
21 with these other ones.

22 I mean, there's others here. There are realtors.  
23 Realtors, you know, they're waiting on money -- commissions --  
24 for a loan. So -- for a closing. And that's what they're  
25 waiting on. That's their bread and butter. So, I've got

Jordison

1   realtors in there going thank you, you've made this so much  
2   faster than what it was before.

3           So, that's how I can go back and say are we providing the  
4   customer service -- because one of the performance elements on  
5   every one of my team members is customer service. This gives  
6   me, without pointing at one person directly -- this gives me an  
7   overview on how we're doing as a program, more than anything.  
8   That we're doing a better job.

9           So, that's what the rest of these are for. If you look  
10   further back in here, it talks about the state internal review  
11   very briefly. For 13 and 14, state internal review -- this is  
12   an audit, okay, just like bank and financial institutions have.  
13   We have an audit. We have a state internal review. We have  
14   five a year. Every area office gets one every five years.  
15   What we have is individuals that go in and they basically audit  
16   your files -- loan files, in business programs, community  
17   programs, housing programs, administrative programs. Let's see  
18   how the area offices are doing. And really, more than  
19   anything, it's a tool to say how can we train better, what can  
20   we do better.

21           If you look at, from fiscal year '13 to fiscal year '14,  
22   you can see that there is still this same recurring problems in  
23   the area offices with single family housing, more than  
24   anything. And that's what I looked at. That applications are  
25   not getting processed quickly -- you know, different things

Jordison

1 like that. These are recurring from one year to the next. The  
2 national office will come out here and if we have recurring  
3 ones, from one year to the next, they come out here -- and I  
4 just had a visit from the national office, and said what have  
5 you done to improve it. And then what I did is I showed them  
6 here's what we've done to approve it. We reduced our -- and  
7 they acknowledged that. We reduced our delinquency rate. Our  
8 application processing is faster. We have no unfunded  
9 applications. Every application that we get is processed.  
10 It's not stuck in a file cabinet anywhere. It is processed.

11 It may be a rejection. It may be a no for now, for that  
12 person. Maybe they have poor credit, or something like that.  
13 But that way, they have time to go back and fix it. But at  
14 least it's processed. They have an answer. So, we had to  
15 address that all with the national office. So, that's what  
16 that information is about. And then I illustrated here the  
17 weaknesses in the different -- it shows that there are same  
18 recurring weaknesses among from one area office to another to  
19 another. And again, that's what these examples are of.

20 Q. All right. Very good.

21 A. Uh-huh. Uh-huh.

22 Q. You understand that one of the issues present in this case  
23 is whether or not we should revert to what we lawyers call  
24 status quo ante, which means the way everything was before.  
25 Right?

Jordison

1 A. Uh-huh. Uh-huh.

2 Q. What would the consequences be of undoing what has taken  
3 place ever since this reorganization or centralization has been  
4 implemented?

5 A. The first thing I always think through -- because number  
6 one, taxpayers pay my salary. I think of the customer first,  
7 our clients. Our clients are our lenders. Our clients are the  
8 people -- the taxpayers here in Texas who we are supposed to  
9 serve. I worry about going back to that kind of service that  
10 we were providing. Again, is it the fault of the people in the  
11 area offices? No. We don't have FTEs. And national office  
12 isn't going to say here, here's a hundred FTEs. So, what we  
13 have to do is try to make a business model that will work and  
14 be able to provide, number one, good customer service.

15 We have, now, lenders who are very happy and they're  
16 getting our product in the guaranteed program in the regulatory  
17 compliance that we said we would do it. Our applicants for the  
18 direct program are actually having their application looked at  
19 and underwritten in a very serious manner, to show can they  
20 afford this. Our foreclosures went from 1,233, when I came in  
21 April -- they're over 1,800 now, just -- not now, September 1st  
22 when I started centralization. We had people that are going  
23 through a foreclosure that never had a chance. We don't need  
24 to add more people onto that. And how can we get over that?  
25 Well, if we had people that were engaged and only doing that



Jordison

1 program they could actually enhance their craft -- learn to be  
2 better underwriters and loan originators. But if we go back to  
3 status quo, it's putting it back into the area offices and  
4 they're still generalists. They're having to work all the  
5 program areas. So, we're going to have applications that will  
6 not be processed. We're going to have an increase again in our  
7 time that we're processing applications, and that's not going  
8 to make our lenders very happy. We deal with national lenders  
9 and state lenders.

10 So, we're compared all the time. Well, Texas is doing  
11 great. Louisiana is going now, we're three weeks behind. And  
12 lenders remind us that we used to be that far behind. We don't  
13 want to go there again.

14 Again, you've also got people out there -- you've got  
15 people, by going back to status quo, that have been hired new  
16 and stuff like that their position is in one place and that's  
17 not where the need is. So, now what do we do with them? There  
18 could be a lot of things that go back. The first thing I think  
19 of all the time are my clients, because that's who pays my  
20 salary. And we chose to be public -- I'm sorry, but I chose to  
21 be a public employee. This is who I choose to serve, and I  
22 think it's really important that we recognize them as being  
23 valid people that we are going to disappoint. And I don't want  
24 to do that. May I get my glass of water?

25 Q. Sure.

Jordison

1 A. Thank you. I'm just getting my glass of water.

2 MR. MONTGOMERY: Those are all the questions I have.

3 JUDGE CENTER: Cross-examination?

4 MS. DYE: I just have a couple questions.

5 **CROSS-EXAMINATION**

6 Q. BY MS. DYE: I believe you were talking about that when you  
7 came you spent some time -- and like you were even looking at  
8 stuff while you were taking care of your father --

9 A. Uh-huh.

10 Q. -- which is admirable -- the, like, studies for things  
11 that other agencies have done and different things. Did you,  
12 like, gather, like, documents or was this all, like, talking on  
13 the telephone or what was it?

14 A. Mostly the phone call. You know, first of all, I reached  
15 out to -- it was Barry Ramsey. He's one of the most senior  
16 housing program directors in the country. And Barry was in  
17 Illinois, and I was in Iowa. So, I knew Barry. I said, who  
18 all are centralized, or who is doing that. He would know,  
19 because he's been around for many, many years. And he said,  
20 you know, Jennifer in Syracuse, New York, has been doing this  
21 for a long time, and Don is going to be starting -- you know,  
22 all of these different ones. So, basically I picked up the  
23 phone and just started calling -- what does yours look like.  
24 When I got here, it appeared that -- I don't know if it was  
25 Scooter, or whoever had it before that -- but I opened up

Jordison

1 cabinets and there was like the New York model for the  
2 guaranteed program -- because, see, back in 2011 it was  
3 mandated by Tammy Trevino that all states are going to  
4 centralize the guaranteed program. So, at that time I wasn't  
5 sure if that was direct or guaranteed. But most of it was on  
6 the phone, talking to them, as I'm sitting there at the  
7 hospital just kind of -- you know, seeing what does yours look  
8 like, how is it working. Because again, the concept of Texas  
9 is so much different because the land that we have and what we  
10 have to cover. That was the hardest thing for me to get here.

11 Q. And did you use that information that you gathered to come  
12 up with the plan for centralization?

13 A. Yeah. Part of it, yeah. I used that. Don Harris in  
14 Tennessee had a good plan. Iowa had a good plan. Nebraska had  
15 to centralize, because they went down to like 30 some odd  
16 people. With the VERA-VSIP it affected states terribly. So, a  
17 lot of states were just scrambling to figure out -- we're  
18 losing 25, 30-year employees to retirement. How do we replace  
19 them. How do we keep the knowledge going. So, that's what I  
20 was doing, is calling a lot of them going what does yours look  
21 like. Because I knew that they were going through it also.

22 Q. Did you share that information with the Union?

23 A. Most of the stuff that I shared with the Union was, you  
24 know, as far as just my information of putting it together.  
25 I'm trying to recall if they asked me specific information on

Jordison

1 what it was. I know on the phone call, when I was with Renee,  
2 we talked about the centralization and how other states are  
3 doing it. But that was on the telephone call. So, I'm trying  
4 to -- yeah, mostly.

5 Q. Okay.

6 A. Yeah.

7 Q. So, you came in like May?

8 A. April.

9 Q. April of 2014.

10 A. Uh-huh.

11 Q. And you said three years prior to that they had acting  
12 housing directors?

13 A. I want to say it was like two and a half or three years.  
14 I'm not sure exactly when Scooter left. But then it seems like  
15 there was -- John Kirchhoff was an acting housing program  
16 director, and then Larry Jones was an acting -- he was an area  
17 director in Georgetown. So, there were different actings in  
18 place, yeah.

19 Q. Okay. Were these acting directors also -- like you said  
20 one of them was, like, a Georgetown area director. Was he,  
21 like, responsible still for the Georgetown area, plus he was  
22 like trying to help out the Agency by saying I'll do housing  
23 too?

24 A. You know, I'm not sure. Because when I came, he didn't --  
25 I'm wondering if he might have been detailed. You might have

Jordison

1 to ask, maybe, administration for that. I'm not sure.

2 Q. Okay. But, there were several of them over a period of  
3 two and a half, maybe three years?

4 A. Yeah. They were orphaned -- well, I say orphaned. They  
5 didn't have just a regular full-time permanent housing program  
6 director.

7 Q. And you came here in April of 2013, and then you were the  
8 director.

9 A. '14. '14.

10 Q. '14. Right.

11 A. Correct.

12 Q. 2014 you became the director.

13 A. Correct.

14 Q. And were focused entirely on the housing program.

15 A. Correct.

16 Q. Do you think that part of the reason that they like sort  
17 of had some bad things, like complaints and stuff like that,  
18 could be because they didn't have -- you know, they had acting  
19 directors or whatever? So, there wasn't like really stable  
20 leadership or anything? And then when you came on, you gave  
21 them some stable leadership and, you know, it got better?

22 A. Well, I can't say that -- no. And here's why. In the  
23 guaranteed program when I first came, we were three weeks out  
24 processing applications. So, during the first couple of months  
25 I wanted to try a couple of experiments. So, I called some all

Jordison

1 hands on deck. And what that meant was everybody that was on  
2 that centralized list from 2013, they had to work for two days  
3 straight just processing applications and loan guarantees for  
4 days straight, and to see if we can get our turn time down.  
5 Okay. And so the first one that we did was actually pretty  
6 successful. We went from, like, three weeks down down to -- I  
7 think we were like four days. And that was to be celebrated.

8       However, it didn't take two weeks for us to go right back  
9 up again, because the people in the area offices had other  
10 duties that they had to get done. They had their boss, the  
11 area director, saying no, you need to get this done, you need  
12 to get this done. So, our turn times started creeping up again  
13 and going up. So, I called another hands on deck. Everybody  
14 get in, let's do it, let's get these done. And what happens  
15 again? Goes back up.

16       So, I don't think, again, it has to do with the temporary  
17 leadership. I could see that that could be a valid point. But  
18 I don't think that's the strongest. I think it honestly was  
19 because there's not enough people in the field and they were  
20 pulled in so many directions, to have to work in every program.  
21 Or they had responsibilities on their programs. And I was the  
22 housing program director, but they reported to the area  
23 director. That's their boss.

24 Q. That's before the centralization. Right?

25 A. Right. That's who they're going to -- if their boss says

Jordison

1 to do this, they're going to do it. Just like my boss has --

2 Q. Okay.

3 A. Yeah.

4 MS. DYE: No further questions.

5 THE WITNESS: Okay.

6 JUDGE CENTER: All right. Ma'am, I've got a couple of  
7 questions for you.

8 THE WITNESS: Yes. Yes.

9 JUDGE CENTER: You indicated during your testimony that --  
10 you characterized some of the things that happened during the  
11 August 1st meeting as concessions by you.

12 THE WITNESS: Uh-huh.

13 JUDGE CENTER: Later, you also testified that you thought  
14 both sides had wins.

15 THE WITNESS: Right.

16 JUDGE CENTER: Were those concessions and wins documented  
17 in any way?

18 THE WITNESS: You know, I don't know. Renee had a book.  
19 I know that she had like a three-ring notebook that she was  
20 doing. I had my own notebook that I was taking my notes on,  
21 showing that, you know, here is what -- we went down those 10  
22 points and stuff like that. I will be honest with you. It was  
23 the second labor -- I've never been exposed to a union. So,  
24 I'm not sure of the procedures and all of that stuff, and the  
25 wording. To me, it was like let's go in and negotiate this.

Jordison

1 Because again, I've never been involved in the Union before.  
2 So, my thing is we were just going -- let's start with the  
3 first one, the second one, the third one, the fourth one. And  
4 again, they had some valid points on, you know, don't take the  
5 administrative people.

6 And, one of the things also, on telework -- I haven't got  
7 people teleworking on Mondays and Fridays. Why? Because in  
8 the area offices, that's when they're needed. Because in the  
9 area offices, you've got people off on Monday and Friday. So,  
10 therefore, I've got people that telework maybe on a Tuesday or  
11 a Thursday or a Wednesday. That way, they can help provide  
12 coverage to the office. So, those were some of the things that  
13 I looked at as being -- it wasn't really a win. It was just  
14 professional courtesy.

15 JUDGE CENTER: But as far as you recall, there was no  
16 memorandum of understanding, or anything written created to  
17 document these decisions?

18 THE WITNESS: No. No. Not that I know of. Uh-uh. We  
19 just left. I think everybody understanding what we went  
20 through.

21 JUDGE CENTER: With respect to the areas where you said  
22 there was going to be no agreement -- with the perfect example  
23 being seniority --

24 THE WITNESS: Uh-huh.

25 JUDGE CENTER: -- was the Union told that you and they



Jordison

1     were at impasse and that there was going to be no agreement.

2           THE WITNESS: I don't recall the word impasse at all.

3           JUDGE CENTER: Okay.

4           THE WITNESS: No. No. No. It was just explained that we  
5     don't hire that way through USA Jobs, based on seniority. We  
6     just can't make this up ourselves. That was the kind of thing.  
7     And honestly, I've never hired anybody through seniority. So,  
8     I just felt like we needed the best people for the position.

9           JUDGE CENTER: To your knowledge, does the MOU currently  
10    have anything in it about seniority? I mean -- not the MOU.  
11    The contract.

12          THE WITNESS: I do not recall.

13          JUDGE CENTER: Okay.

14          THE WITNESS: I don't.

15          JUDGE CENTER: Counsel, any redirect? Any recross?  
16    Subject to recall?

17          MR. MONTGOMERY: No.

18          JUDGE CENTER: Thank you very much for your testimony.

19          THE WITNESS: Thank you.

20          JUDGE CENTER: It's been very helpful. You're free to  
21    leave.

22          THE WITNESS: You bet. Thank you.

23          JUDGE CENTER: Please don't discuss your testimony with  
24    anyone else.

25          THE WITNESS: Okay.

Lambright

1 (Witness excused.)

2 JUDGE CENTER: Counsel, you ready for your next witness?

3 THE WITNESS: Am I allowed to stay in here, or not?

4 JUDGE CENTER: Yeah. You're not subject to recall, so you  
5 can stay in.

6 JUDGE CENTER: Witness please.

7 MR. MONTGOMERY: All right.

8 JUDGE CENTER: Call your next witness.

9 MR. MONTGOMERY: Yes. Allen Lambright.

10 JUDGE CENTER: Mr. Lambright, if you would please raise  
11 your right hand.

12 (Whereupon,

13

ALLEN LAMBRIGHT

14 was called as a witness by and on behalf of the Agency and,  
15 after having been first duly sworn, was examined and testified  
16 as follows:)

17 JUDGE CENTER: Please be seated. Please state your name.

18 THE WITNESS: Allen Lambright.

19 JUDGE CENTER: And please spell that for the court  
20 reporter.

21 THE WITNESS: A-l-l-e-n. Lambright, L-a-m-b-r-i-g-h-t.

22 JUDGE CENTER: Counsel, proceed. Proceed.

23

## DIRECT EXAMINATION

24 Q. BY MR. MONTGOMERY: Mr. Lambright, can you tell us how you  
25 are employed today?

## Lambright

- 1 A. I am the area director for area three.
- 2 Q. Okay. What part of the state is area three?
- 3 A. Excuse me?
- 4 Q. What part of the state is area three?
- 5 A. Area three is basically north of Dallas, north of Fort
- 6 Worth, and goes essentially over to the panhandle of Texas.
- 7 Q. Okay.
- 8 A. About 22 counties on the north side.
- 9 Q. Okay. How many employees do you have under you in that
- 10 area?
- 11 A. I have -- in the McKinney office, I have three -- four,
- 12 excuse me. Four in the McKinney office. And I have two in the
- 13 Decatur office.
- 14 Q. So, apart from you it is six people making up that whole
- 15 area?
- 16 A. Correct.
- 17 Q. All right. How long have you occupied that position?
- 18 A. About 10 years. I don't know my exact date.
- 19 Q. Okay. So, it goes back before the centralization plan
- 20 that we're --
- 21 A. Well before.
- 22 Q. -- talking about here. Right?
- 23 A. Well before.
- 24 Q. All right. When did you first hear about the idea that
- 25 there was going to be centralization of certain programs?

Lambright

1 A. Probably May time frame, 2014.

2 Q. All right. What involvement did you personally have in  
3 that?

4 A. I didn't really have any -- I didn't have any involvement  
5 until the end of July time frame, when I was asked by Sylvia to  
6 be part of the bargaining team.

7 Q. Okay. Were you in fact part of that team?

8 A. Yes.

9 Q. What is your understanding of what bargaining was done  
10 with the Union about this proposed plan?

11 A. Initially, I came in on a Thursday. The meeting was  
12 postponed until Friday, August 1st. And we discussed a letter.  
13 I'm not sure of the date of that letter. But it had about 10  
14 points on it.

15 Q. Okay. Now, this meeting that took place on August 1, was  
16 it your understanding that this was bargaining between  
17 management and labor?

18 A. That was what I was told it was for.

19 Q. What was the outcome of that meeting or session, and maybe  
20 any follow-up? What was the result of that day's work?

21 A. Discussed some issues. Agreed on some issues. Agreed to  
22 disagree on some issues.

23 Q. Okay. All right. I understand that this meeting broke up  
24 a little before two in the afternoon.

25 A. Yes, sir.

Lambright

1 Q. When the parties went their separate ways, did anybody say  
2 well, we've got more to do, more negotiation, more bargaining,  
3 let's all get back together at a future time?

4 A. I don't recall that statement.

5 Q. Let me try it another way. Were there any unresolved  
6 issues left hanging in the air after that day that needed to be  
7 taken up later?

8 A. Not that I recall.

9 Q. Is it fair to say that everything that could be resolved  
10 through discussion, bargaining, negotiation was already  
11 achieved at that point?

12 A. I would believe so.

13 Q. All right. Did you ever hear differently later on?

14 A. Did I hear differently?

15 Q. Yeah. I mean, to your knowledge, did -- were you ever  
16 asked to participate in a later sub-session?

17 A. No.

18 Q. Another issue I'd like to ask you about is the  
19 consequences of the centralization plan. Have you been able to  
20 observe what the effect has been in the area that you  
21 supervise?

22 A. The area that I am now responsible for?

23 Q. Yes.

24 A. Yes. I've used the term we have more wins. Meaning we've  
25 been able to accomplish some things that had not been

Lambright

1 previously accomplished, because we're not focused on the  
2 housing programs.

3 Q. Can you give us some examples of that?

4 A. Compliance reviews for multi-family housing. We'd gone  
5 probably -- just a best guess -- two to three years without  
6 having time to do those. Well, since October of 2014 probably  
7 20 apartment complexes we've been able to do the compliance  
8 reviews, supervisory visits, physical inspections on those.

9 Q. What change has there been, if any, in how efficiently you  
10 are serving the people in the geographical area that you're  
11 responsible for?

12 A. Kind of a notable change that I see is we've been able to  
13 get out and talk to a few more people. We've had a little bit  
14 more time to outreach our community facilities program. 2016,  
15 we'll see the benefit of that -- probably have six applications  
16 on hand for our community facilities grant program. In 2014,  
17 we received one application for that program. That's just one  
18 example.

19 Q. Has the centralization made your service worse in any way?

20 A. Not that I'm aware of.

21 Q. Okay. Now, you know other people that work for Rural  
22 Development in the state -- people in other offices around the  
23 state, I take it. Some of them have management jobs, in so  
24 many words. Is that fair to say?

25 A. That's correct.

Lambright

1 Q. Do you ever talk to these people about what the  
2 consequences are of the new way of doing things?

3 A. The consequences?

4 Q. The results. The outcomes.

5 A. I think you'll see that outcome varied by office to  
6 office. I don't think there's a cookie cutter answer to that,  
7 as far --

8 Q. Well, what I mean is you have testified that as for your  
9 own office and the office you supervise that it's improved  
10 things. Is that an opinion that is generally shared around the  
11 state?

12 A. That would be my belief. The managers in my position  
13 would state that bringing the housing programs back would be  
14 difficult, given the staffing constraints that we have in the  
15 local offices.

16 Q. Do you know of anybody in management who takes the  
17 position that the old way of doing things was better and they  
18 wish we hadn't changed?

19 A. No. I have not had that conversation with anyone.

20 Q. All right. Now, you understand that part of what is at  
21 issue in this case is what we call status quo ante -- whether  
22 we have to go back to the way things were done before. To undo  
23 the changes.

24 A. Correct.

25 Q. In your opinion, what would be the consequences of doing

Lambright

1 that?

2 A. For the McKinney local office, the consequence would be to  
3 return to an approximately three week turn time for our  
4 guaranteed housing programs, which is the turn time that we had  
5 when we handed the program off to the guaranteed housing team.

6 Q. What's the turn time now?

7 A. Same day, for the most part. Which is -- that's within  
8 regulatory compliance. Three week turn time is not within  
9 regulatory compliance. So, that's number one. And I think  
10 probably the biggest impact, we did have some instances on our  
11 direct housing, again due to staffing issues there, that it was  
12 taking us six to eight months to issue certificates of  
13 eligibility for that program. And in some instances a year to  
14 close a direct housing loan.

15 Q. And what is it now?

16 A. I don't know the exact turn time, but I -- it's my  
17 understanding it's quicker than that. So, it's not a figure  
18 that I monitor.

19 Q. In your opinion, would the citizens of the geographical  
20 area that you serve -- and by that I mean the customers and  
21 potential customers of USDA's Rural Development services -- do  
22 you think it would better for them if we went back to the old  
23 way of doing things?

24 A. I would say no, because when we're going to take, you  
25 know, up to a year to process a home loan that's an



Lambright

1 unacceptable business practice. From a customer standpoint.

2 MR. MONTGOMERY: Those are all the questions I have, Your  
3 Honor.

4 JUDGE CENTER: Cross-examination?

5 MS. DYE: Just a few questions.

6 **CROSS-EXAMINATION**

7 Q. BY MS. DYE: Prior to the centralization, the area offices  
8 are the ones that handled the housing program. Is that  
9 correct?

10 A. Correct.

11 Q. And as the area director, were you the supervisor for the  
12 employees in that area?

13 A. Yes.

14 Q. I mean in your area --

15 A. Yes.

16 Q. -- which is Area 3.

17 A. Yes.

18 Q. How many employees did you have -- do you have?

19 A. I have seven now.

20 Q. Do you have any that are on the guaranteed or the direct  
21 502 housing programs.

22 A. The McKinney office has two employees that work on the  
23 guaranteed housing team, one that works on the direct housing  
24 team, and then the Decatur office has one employee that works  
25 on the guaranteed housing team.

Lambright

- 1 Q. So, four?
- 2 A. Four.
- 3 Q. And that's of the seven total?
- 4 A. No, ma'am.
- 5 Q. Oh, you're not counting --
- 6 A. No, I was not counting those. No.
- 7 Q. Okay. So, if, for example -- they're actually sitting in
- 8 those offices, right? They're not here. They're sitting in
- 9 Decatur or --
- 10 A. Correct.
- 11 Q. -- McKinney?
- 12 A. Yes, ma'am.
- 13 Q. If the Agency decided, okay, well, we're just going to go
- 14 back to the way we did things and have the area offices, you as
- 15 a supervisor for those employees -- could you assign them --
- 16 the same employees that are doing it now, housing duties?
- 17 A. No. Those same employees were the ones that were
- 18 responsible for the three week turn time on the guaranteed
- 19 housing program. Those 11 made up the team that took three
- 20 weeks to process a guaranteed housing loan. So, the --
- 21 Q. I don't think I'm -- maybe I didn't ask the right question
- 22 or not the right way. But right now you have people sitting in
- 23 your office that don't do any of the work of the area. They do
- 24 central office work. Right?
- 25 A. Correct.

Lambright

1 Q. Not central office -- state office work.

2 A. Yes, ma'am.

3 Q. If this centralization was stopped, those two people could  
4 be assigned by you to do the housing work -- leaving free the  
5 other people that are right now free from having to do those  
6 things. Isn't that correct?

7 A. Yes, ma'am.

8 MS. DYE: No further questions.

9 JUDGE CENTER: Mr. Lambright, you indicated during your  
10 testimony on direct examination that you were told your purpose  
11 for being at the August 1st meeting was bargaining.

12 THE WITNESS: Uh-huh.

13 JUDGE CENTER: Who told you that?

14 THE WITNESS: Sylvia Maedgen.

15 JUDGE CENTER: Would it surprise you to hear that she  
16 characterized it today as only a discussion with the Union?

17 THE WITNESS: That would surprise me.

18 JUDGE CENTER: And that she basically indicated that she  
19 believed that there was going to be no bargaining.

20 THE WITNESS: That would surprise me, because I distinctly  
21 remember the phone call when she called and said the Union has  
22 demanded to bargain and we want you to be part of the  
23 bargaining team.

24 JUDGE CENTER: Counsel. Redirect?

25 MR. MONTGOMERY: No further questions.

Lambright

1 JUDGE CENTER: Cross?

2 Q. BY MS. DYE: Do you know when you got that call?

3 A. Maybe a Monday, Tuesday, Wednesday. It was early in that  
4 week.

5 Q. Of that week, where --

6 A. Yes.

7 Q. -- where you got together?

8 A. Yes, ma'am.

9 MS. DYE: Okay. No further questions.

10 JUDGE CENTER: All right. Subject to recall?

11 MR. MONTGOMERY: No.

12 JUDGE CENTER: Thank you very much for your testimony.

13 THE WITNESS: All right.

14 JUDGE CENTER: You're free to leave. And don't discuss  
15 your testimony with anyone else. I appreciate your assistance.

16 THE WITNESS: Thank you.

17 **(Witness excused.)**

18 JUDGE CENTER: Counsel, call your next witness.

19 MR. MONTGOMERY: Yes. Gary Jacobs.

20 (Whereupon,

21 **GARY MICHAEL JACOBS**

22 was called as a witness by and on behalf of the Agency and,  
23 after having been first duly sworn, was examined and testified  
24 as follows:)

25 THE WITNESS: Michael is M-i-c-h-a-e-l. Last name Jacobs,

Jacobs

1 J-a-c-o-b-s.

2 JUDGE CENTER: Counsel, proceed.

3 **DIRECT EXAMINATION**

4 Q. BY MR. MONTGOMERY: Mr. Jacobs, can you tell us how you  
5 are employed today?

6 A. I'm the administrative program director for Rural  
7 Development Texas.

8 Q. Okay. Is that a statewide responsibility?

9 A. Yes, sir.

10 Q. All right. What GS grade does that position carry?

11 A. It's a GS-13.

12 Q. How long have you occupied that specific position?

13 A. I started June 1st of this year, 2015.

14 Q. If you will look at the smaller of the two books that are  
15 in front of you -- that one right there -- there are some  
16 exhibits in the back which are marked with double letters.  
17 Respondent's Exhibit DD, EE, and --

18 A. Okay. There it is.

19 JUDGE CENTER: You get a gold star for the day.

20 Q. BY MR. MONTGOMERY: I'm talking about the ones that have  
21 these multicolored tables there.

22 A. Okay.

23 Q. Can you tell me which ones you have in the book there?

24 A. I have BB, CC, DD.

25 Q. All right. Just look through that.

Jacobs

- 1 A. Charts?
- 2 Q. Yes. Have you seen these charts before?
- 3 A. Yes, sir.
- 4 Q. Where do they come from?
- 5 A. I developed them prior to these proceedings based upon the
- 6 org chart that was in effect on the dates that are shown on the
- 7 top left.
- 8 Q. All right. I'll allow you to get into the details in just
- 9 a minute. But, in a general sort of a way what could we learn
- 10 by looking at these exhibits?
- 11 A. Taking a look at the June 14 one was how the state of
- 12 Texas was organized at that point.
- 13 Q. Uh-huh.
- 14 A. What the org chart looked like and where the positions
- 15 were by series and grade, I believe. So, that's DD.
- 16 Q. Okay.
- 17 A. The CC is the current 2015 to 2016 org chart, based upon
- 18 where positions are post centralization. With different color
- 19 codes matching, basically, the (INAUDIBLE). And then the chart
- 20 BB would be if we were looking at status quo ante what
- 21 positions would be affected by that. And that's BB.
- 22 Q. All right. What do you think the consequences would be of
- 23 the Agency having to comply with an order to return to the
- 24 status quo ante?
- 25 A. We would be looking at chart BB, and I believe 43

Jacobs

1 personnel actions would need to take place to either -- we're  
2 looking demotions putting people back to the way they were, or  
3 terminations because those positions didn't exist before, or  
4 somebody was brought on as a result of the centralization. And  
5 each one of those highlighted in purple is somebody that would  
6 have been affected by that.

7 Q. Okay. So, looking at the lower right-hand corner there,  
8 for example, you've got a demote and move back and terminate.  
9 It says there, right?

10 A. I should have brought my glasses. Right. That would be a  
11 Jason Wu (ph.), an area specialist there.

12 MR. MONTGOMERY: All right. So, you know, I have not  
13 counted them up. But let me just take a quick look here.  
14 There's one, two, three --

15 JUDGE CENTER: I believe he testified it was 43.

16 MR. MONTGOMERY: Forty-three personnel actions. Yes.

17 JUDGE CENTER: Right.

18 THE WITNESS: Correct.

19 Q. BY MR. MONTGOMERY: And it looks like -- well, I can't  
20 count them all up. But it looks like there's at least eight or  
21 10 people that would have to lose their jobs. Is that correct?

22 A. Correct. I have my notes right there, that show  
23 terminations and demotions. I don't remember the number. But  
24 it's around 10. It's actually written on there, if I need to  
25 refer to that. And that's based upon the chart.

Jacobs

1 Q. Do you believe that it would be desirable for the Agency  
2 to have to demote and terminate these people?

3 A. I'm not sure I understand the question. Would it be  
4 desirable for us to --

5 Q. Yeah. Would it be a good thing if that happened?

6 A. Oh, I don't think it would be a good thing. No.

7 Q. Why not?

8 A. That affects people's livelihoods. I was not here to know  
9 whether somebody had moved to take a position, like I did. I  
10 moved here from another state to take on a position. So, I  
11 don't think it would be beneficial for the employees for that  
12 to happen.

13 Q. How about people in the state -- more of the clients and  
14 customers of USDA Rural Development?

15 A. Well, I think the business practice would be impacted.  
16 Because the whole reason why -- my understanding was the whole  
17 reason why this took place was that there was a business model  
18 that needed to be changed to support those people in Texas.  
19 So, if we go back to that status quo -- to go back to the way  
20 it was -- not only are employees going to be affected but the  
21 public is going to be affected as well. As a result of not  
22 having that number of employees on board, or in the correct  
23 positions.

24 Q. You say the public would be affected. Would that be for  
25 the better or for the worse?



Jacobs

1 A. I would assume for the worse.

2 MR. MONTGOMERY: Those are all the questions I have for  
3 Mr. Jacobs.

4 JUDGE CENTER: Cross-examination?

5 MS. DYE: Just a couple questions.

6 **CROSS-EXAMINATION**

7 Q. BY MS. DYE: Do I understand this chart to mean that you  
8 believe -- the Agency believes -- that if you are ordered to go  
9 to the status quo ante you would be required to demote people  
10 who have been promoted or to fire people who you hired during  
11 the last year?

12 A. That's my understanding, that if a position was there  
13 prior or was there prior there would be a personnel action that  
14 would change that -- where that position currently is, back to  
15 where it either was or was not prior.

16 MS. DYE: I have no further questions.

17 JUDGE CENTER: Mr. Jacobs, I have a couple questions for  
18 you. And I want to make sure I understand this.

19 THE WITNESS: Yes.

20 JUDGE CENTER: Basically, your testimony then is  
21 approximately 10 people have been hired since this change took  
22 place?

23 THE WITNESS: Yes.

24 JUDGE CENTER: All right. I've heard a lot of testimony  
25 about how this change has made things a lot better. Wouldn't

Jacobs

1 hiring 10 more people make things better regardless of where  
2 they were at or what kind of program was being used?

3 THE WITNESS: I would think so, as long as they're in the  
4 correct -- you know, it depends on the business model. But I  
5 would assume so.

6 JUDGE CENTER: Any redirect? Any recross? Subject to  
7 recall?

8 MR. MONTGOMERY: No.

9 JUDGE CENTER: Mr. Jacobs, thank you very much for your  
10 testimony. It's been very helpful. Please don't discuss your  
11 testimony with anyone else, but you're free to leave.

12 THE WITNESS: Yes. Thank you.

13 **(Witness excused.)**

14 JUDGE CENTER: Hearing briefs are reviewed and considered.  
15 I will prepare and file my recommended decision with the  
16 Federal Labor Relations Authority, and a copy will be served on  
17 each of the parties.

18 You are reminded to refer to the FLRA's rules and  
19 regulations for information regarding the filing of briefs and  
20 procedures that must be followed after the issuance of my  
21 recommended decision.

22 Now that all the evidence is in, you may have a better  
23 understanding of the facts, the strength of your case and the  
24 potential outcome. All parties should carefully weight the  
25 risk entailed and decide whether an amicable settlement of the

1 issues might provide a suitable resolution prior to my issuing  
2 a recommended decision. A settlement between the parties may  
3 be reached at any time before I issue my decision.

4 Post-hearing briefs will be due on Monday, December the  
5 21st, 2015. The record will remain open until that day. Any  
6 motion for an extension of time must be made in writing to me  
7 at my Washington, D.C., address and served upon the other  
8 parties.

9 The positions of the other parties regarding an extension  
10 should be obtained and set forth in the motion. I will grant  
11 extensions for the filing of briefs only when they are  
12 justified. The mere fact that the parties have agreed upon an  
13 extension will not be a sufficient reason to grant the motion.  
14 The motion must contain specific reasons demonstrating why the  
15 moving party cannot meet the established due date for the  
16 brief.

17 Does anyone have anything further related to this hearing  
18 that we need to discuss?

19 MS. DYE: Not the General Counsel.

20 MR. MONTGOMERY: Not the Agency.

21 JUDGE CENTER: Thank you all for your participation and  
22 cooperation. This hearing is now closed.

23 **(Whereupon, at 5:18 p.m., the hearing in the above-**  
24 **entitled matter was closed.)**

25

26

**CERTIFICATION**

This is to certify that the attached proceedings before the Federal Labor Relations Authority (FLRA), Dallas Region, in the matter of **U.S. DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, TEMPLE, TEXAS and AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 571, AFL-CIO**, Case No. DA-CA-15-0080, at Temple, Texas, on November 19, 2015, were held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.

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